



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## BOARD OF DIRECTORS' REGULAR MEETING

March 21, 2007

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7<sup>th</sup> floor Board Room at the Air District headquarters, 939 Ellis Street, San Francisco, California.

### Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff person to contact for additional information or to resolve concerns is listed for each agenda item.

### Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:45 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

# BOARD OF DIRECTORS' REGULAR MEETING A G E N D A

WEDNESDAY  
MARCH 21, 2007

BOARD ROOM  
7TH FLOOR

9:45 A.M.

## CALL TO ORDER

Opening Comments  
Roll Call  
Pledge of Allegiance

Chairperson, Mark Ross  
Clerk of the Boards

## PUBLIC COMMENT PERIOD

**Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**  
*Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.*

## UNVEILING OF PHOTOGRAPHY DISPLAY

*Chairperson Ross, Vice-Chairperson, Hill and Secretary, Torliatt will unveil photography displayed in the 7<sup>th</sup> floor board room.*

## CONSENT CALENDAR (ITEMS 1 – 6)

Staff/Phone (415) 749-

- Minutes of February 7, 2007  
M. Romaidis/4965  
[mromaidis@baaqmd.gov](mailto:mromaidis@baaqmd.gov)
- Communications  
Information only  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)
- Quarterly Report of Division Activities  
Report of Division Activities for the months of October – December 2006.  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)
- Consider Authorization of the Executive Officer/APCO to Accept Fiscal Year 2006/2007 Carl Moyer Program Funds  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Board of Directors will consider authorizing the Executive Officer/APCO to accept fiscal year 2006/2007 Carl Moyer Program funds.*

5. Referral of Draft Proposed Budget for Fiscal Year Ending 2008 to the Budget and Finance Committee

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Section 29064 of the Government Code, the Board shall refer the proposed budget for Fiscal Year Ending 2008 to the Budget and Finance Committee for review and consideration.*

6. Consider Approval of Hiring Recommendation at Step E for a Principal Environmental Planner Position

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Consider approval of hiring recommendation at Step E for a Principal Environmental Planner. This position will be responsible for the Climate Protection Grant Program.*

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

7. Report of the **Executive Committee** Meeting of February 9, 2007

CHAIR: M. ROSS

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

8. Report of the **Budget and Finance Committee** Meeting of February 28, 2007

CHAIR: C. DALY

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Action(s): The Committee recommends that the Board of Directors' approve staff's recommendation to designate and fund a reserve for "other-than-pension post-employment benefits (OPEB) for Fiscal Year Ending 2008, and the transfer \$1.4 million from undesignated reserves to the newly designated reserve fund.*

9. Report of the **Personnel Committee** Meeting of March 5, 2007

CHAIR: H. BROWN

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Action(s): The Committee recommends approval of the following actions:*

- A) *Appointment of Thomas M. Dailey, M.D. to fill the regular Medical Profession position for a three-year term that expires on April 14, 2010, and the appointment of Christian Colline to fill the regular Registered Professional Engineer position for a three-year term that expires on March 6, 2010;*
- B) *Approve the appointment of Janet Weiss, M.D. to the alternate Medical Profession position for a three-year term effective April 14, 2007 and expires on April 14, 2010; and*
- C) *Appoint Melissa Tumbleson to the alternate Registered Professional Engineer position for a three-year term effective immediately and expires on March 6, 2010.*

10. Report of the **Stationary Source Committee** Meeting of March 8, 2007

CHAIR: S. HAGGERTY

J. Broadbent/5052

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

11. Report of the **Legislative Committee** Meeting of February 12, 2007

**CHAIR: B. WAGENKNECHT**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Action(s): The Committee recommends Board of Directors' approval of Air District positions on 13 newly introduced bills as indicated in your packets.*

12. Report of the **Public Outreach Committee** Meeting of March 19, 2007

**CHAIR: P. KWOK**

**J. Broadbent/5052**

[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Action(s): The Committee may recommend Board of Directors' approval of the following contracts to assist with public outreach:*

- A) Community Outreach – Community Focus not to exceed \$180,000;*
- B) Advertising Design and Production – O'Rorke not to exceed \$400,000; and*
- C) Media Relations and Employer Program – Allison & Partners not to exceed \$780,000.*

### **OTHER BUSINESS**

13. Report of the Executive Officer/APCO

14. Chairperson's Report

15. Board Members' Comments

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)

16. Time and Place of Next Meeting - 9:45 a.m., Wednesday, April 4, 2007- 939 Ellis Street, San Francisco, CA 94109

17. Adjournment

**CONTACT CLERK OF THE BOARD - 939 ELLIS STREET SF, CA 94109**

**(415) 749-4965**

**FAX: (415) 928-8560**

**BAAQMD homepage:**

[www.baaqmd.gov](http://www.baaqmd.gov)

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 9, 2007

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of February 7, 2007.

DISCUSSION

Attached for your review and approval are the draft minutes of the February 7, 2007 Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Draft Minutes: Board of Directors' Regular Meeting – February 7, 2007

**Call To Order**

Opening Comments: Chair Mark Ross called the meeting to order at 9:55 a.m.

Roll Call: Present: Mark Ross, Chair, Tom Bates, Harold Brown, Chris Daly, Erin Garner, John Gioia (10:00 a.m.), Jerry Hill, Yoriko Kishimoto, Carol Klatt, Liz Kniss (10:04 a.m.), Patrick Kwok, Jake McGoldrick, Nate Miley, Michael Shimansky, John Silva, Pamela Torliatt, Gayle B. Uilkema, Brad Wagenknecht.

Absent: Dan Dunnigan, Scott Haggerty, Janet Lockhart, Tim Smith.

Pledge of Allegiance: The Board of Directors recited the Pledge of Allegiance.

Proclamation/Commendation: There were none.

**Public Comment Period:** There were none.

Chair Ross stated that Director Torliatt requested that agenda item 2 be removed from the Consent Calendar and he so ordered.

**Consent Calendar (Items 1 – 2)**

1. Minutes of January 17, 2007
2. Communications. Correspondence addressed to the Board of Directors. For information only. – Removed from Consent Calendar

**Board Action:** Director Brown moved approval of Consent Calendar Item 1; seconded by Director Garner; carried unanimously without objection.

2. Communications. Correspondence addressed to the Board of Directors. For information only.

Director Torliatt stated that, as Secretary of the Board, she requested that copies of all Board correspondence be placed in a binder. The binder will be at the Clerk's desk and is available for review by Board members, or any other interested party.

**Board Action:** Director Wagenknecht moved approval of Consent Calendar Item 2; seconded by Director Torliatt; carried unanimously without objection.

### **Committee Reports and Recommendations**

3. Report of the Climate Protection Committee Meeting of January 18, 2007

Director Uilkema presented the report and stated that the Committee met on Thursday, January 18, 2007.

Staff presented a report on the Bay Area Climate Protection Summit held on November 10, 2006. Staff reviewed the variety of people attending the Summit, the Summit speakers, and network sessions. The next steps include a Regional Leadership Council, a Climate Protection website, a public outreach campaign and the Climate Protection Grant Program.

Staff presented information on the establishment of the Climate Protection Grant Program that would transition into a Climate Protection Foundation. A \$3 million grant program was announced at the Summit. Staff reviewed the types of projects that could be funded through this Program and the potential recipients. The Committee members expressed particular interest in student education and public awareness campaigns. The next steps include hiring a person to lead the program, development of program guidelines, soliciting public input and Board adoption of program guidelines. A tentative schedule anticipates a call for projects in late summer or early fall of 2007.

The Committee had questions with regard to the legal aspects of establishing a foundation and requested staff provide a report at a future meeting.

The next meeting of the Committee will be at the Call of the Chair.

**Board Action:** Director Uilkema moved that the Board of Directors' approve the report of the Climate Protection Committee; seconded by Director Kishimoto.

There was discussion on what Committee(s) the climate protection grant program will be under. Jack Broadbent, Executive Officer/APCO stated that this will be discussed at the next Board Executive Committee meeting, which is scheduled for Friday, February 9<sup>th</sup>. The motion then passed unanimously without objection.

Director John Gioia arrived at 10:00 a.m.

4. Report of the Budget and Finance Committee Meeting of January 24, 2007

*Action(s): The Committee recommended approval of the addition of (1) one employee position of Supervising Environmental Planner to the current fiscal year budget in the Grant Programs Section of the Outreach and Incentives Division.*

Director Daly presented the report and stated that the Committee met on Wednesday, January 24, 2007.

Staff presented a summary of the status of the fiscal year 2007/2008 budget process. An overview was provided on mid-year financial projections, county revenue, fee revenue, expenses, and current uses of reserves. In addition, staff discussed the District's unfunded

medical liability, which must be reported starting fiscal year 2008/2009. A brief review of the Carl Moyer audits currently being conducted at the Air District was provided to the Committee. The Committee requested that an overview of the audits become a standing item on future agendas.

The Committee received for consideration and recommendation, a request for an additional position in the current fiscal year 2006/2007 budget, for a Supervising Environmental Planner in the Grants Program Section of the Outreach and Incentives Division. This request is a result of legislative revisions to the Carl Moyer Program. The workload has increased as result of new compliance requirements for grant programs. Legislative revisions to the program provide for an increase in administrative costs from 2% to 5%. Staff was requested to provide a summary of the Carl Moyer Program allocation relative to administration of the program. The summary is included in agenda item 4 in the Board packet.

The Committee recommends that the Board of Directors approve the addition of a Supervising Environmental Planner position to the current fiscal year budget in the Grant Programs Section of the Outreach and Incentives Division.

The next meeting of the Committee is scheduled for 9:45 a.m., Wednesday, February 28, 2007.

**Board Action:** Director Daly moved that the Board of Directors approve the recommendation and report of the Executive Committee; seconded by Director Uilkema; carried unanimously without objection.

Director Liz Kniss arrived at 10:04 a.m.

### Other Business

5. Report of the Executive Officer/APCO – Mr. Broadbent reviewed the following:
  - A) PM<sub>2.5</sub> exceedances based on continuous PM<sub>2.5</sub> monitors from November 1, 2006 through February 6, 2007. The Bay Area has exceeded the new standard 29 days this winter.
  - B) The Spare the Air Tonight program informs the public when there may be potential elevated levels of PM and the public is asked not to burn wood. There have been approximately 30 of these types of days to-date.
  - C) There was a Spare the Air Tonight alert last night, but PM levels were just below the standard
  - D) It will be several years before the Environmental Protection Agency (EPA) defines the attainment status of areas in the country. Based on the attainment determinations, EPA will then prescribe the appropriate planning mechanisms, or what areas like the Bay Area will have to do.

Discussion took place on the following:

- People need to know what to do when a Spare the Air Tonight advisory is called.
- What steps other air districts have taken to address wood smoke.
- Send out a generic message that burning wood in general is a bad thing.

Draft Minutes of February 7, 2007 Regular Board Meeting

- Truck traffic at night is a major contributor to PM emissions.
  - Encourage people to chip or mulch tree trimmings, including larger pieces.
  - Presentations at city council meeting, or other local agencies, on the Spare the Air Tonight campaign.
  - Director Uilkema requested that the *Contra Costa Times* article and survey on wood smoke be sent to the Public Outreach Committee.
  - Alternative uses for a fireplace (candles, etc.).
6. Chairperson's Report – Chair Ross stated that the current Standing Committee assignments are at each Board member's place. Chair Ross cancelled the February 21, 2007 Regular Board meeting.
  7. Board Members' Comments – Director Kniss applauded the Air District staff for securing Al Gore to speak at the Climate Protection Summit. Director Kniss noted that Mr. Gore recently spoke at the Joint Venture: Silicon Valley Network and has been nominated for an Oscar and the Nobel Peace Prize.
  8. Time and Place of Next Meeting – 9:45 a.m., Wednesday, March 7, 2007 – 939 Ellis Street, San Francisco, CA 94109
  9. Adjournment – The meeting adjourned at 10:33 a.m.

Mary Romaidis  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

AGENDA: 3

Memorandum

To: Chairperson, Mark Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2007

Re: Report of Division Activities for the Months of October - December 2006

**FINANCE, ADMINISTRATION AND  
INFORMATION SERVICES DIVISION – J. McKAY, DIRECTOR**

**Finance**

The Yearly Audit process is completed with a draft Auditor’s Report showing no findings. In addition, the District is supporting the statewide audit of the Carl Moyer program. To this end, the District is hosting auditors from three separate agencies – the Bureau of State Audits, the Department of Finance and the California Air Resources Board. Each of these agencies will deliver a separate audit report.

The Finance Section and Business Office have both completed Desktop Procedure Manuals to formalize the methods used within the Division for business process. These manuals serve multiple functions, including standardization of process, training of staff, and transparency for auditors.

In the coming budget cycle the District intends to begin review of obligations for funding of medical benefits. Beginning in fiscal year 08-09 the District will be required to include these obligations in its financial reporting.

**Business Office**

The District has taken the lead in the Bay Area to become the first government agency in San Francisco certified as a Green Business by the Bay Area Green Business Program. The District is particularly proud of this achievement given that we maintain an auto fleet.

In the last quarter the District executed 41 contracts.

## **Facilities**

A key enabler for the District's Green Business attainment is the excellent housekeeping in the garage. Two separate Green Business representatives commented on the exceptional nature of the District's garage housekeeping.

In October of 2006 the Board approved plans to perform deferred maintenance in the District office space. The first large goal in this work was to refurbish the 5<sup>th</sup> Floor West office space. This work was accomplished slightly ahead of schedule.

The roof on the Rooftop Equipment room was replaced.

## **Information Systems**

Business Process Mapping for the Production System replacement of IRIS and Databank is on schedule. Both the Engineering team and the Enforcement team have contributed a substantial number of hours to this work. Legal and other divisions are also participating.

Build out of the secondary server room is in process – this is the first step in Data Center remodeling and Network Topography re-engineering.

Employee mobility can be a great asset. Therefore, the challenge of connectivity coupled with information security must be addressed. To this end, several employees have been provided with pilot implementations of laptop-based workstations. The workstations include wireless connectivity and advanced data protection and encryption techniques.

**COMPLIANCE & ENFORCEMENT DIVISION – K. WEE, DIRECTOR****Enforcement Program**

Pacific Steel Casting (PSC) installed a carbon adsorption air pollution control device on Plant #3 on October 15, 2006. The District conducted a tracer gas source test at Pacific Steel Castings' (PSC) Plant #3 on November 7, 2006 to test the new system's collection efficiency. Staff confirmed 9 odor complaints on November 28, 2006 against Evergreen Oil in Newark and issued a Notice of Violation (NOV) for causing a public nuisance. Staff investigated several complaints regarding particulate fallout at the Oyster Point Marina in South San Francisco and gave a presentation to the South San Francisco City Council on November 29, 2006 about the District's jurisdiction, applicable rules, and complaint investigations at 333 Oyster Point Blvd. On December 5, 2006 staff attended an informational meeting before the San Francisco Redevelopment Agency Board, at the request of the San Francisco Health Department, regarding the Hunters Point Naturally-Occurring Asbestos (NOA) Project. Staff was asked to comment on the NOV issued to the developer, Lennar. During the months of November and December, staff investigated 160 odor complaints from the Bahia neighborhood in Novato. Staff identified that the source of the odors was a septic marsh area north of the neighborhood that is owned by California Department of Fish and Game (CDFG). Staff organized a meeting on December 21, 2006 to coordinate and implement solutions to remediate the marsh and mitigate the odors. The meeting included the Novato City Manager, and staff from California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, Marin County Open Space District, Marin County Flood Control District, the Mosquito Abatement District, and the Marin County Environmental Health Department. Odor levels decreased significantly after additives were placed in the marsh.

**Compliance Assurance Program**

1,690 facility inspections were completed. Staff attended meetings of the Contra Costa County Hazardous Materials Inter-Agency Task Force meeting and the Alameda County Environmental Task Force. Staff attended a California Air Resources Board (ARB) meeting in Sacramento to discuss In-Station Diagnostics that monitor vapor recovery systems at gasoline dispensing facilities. Staff also attended a workshop to address Enhanced Vapor Recovery (EVR) for above ground storage tanks. Staff attended meetings to discuss the demolition of the former Hunter's Point power plant (San Francisco) and United Technologies rocket test facility (Santa Clara County). Port of Oakland staff conducted marine terminal and port operations security and safety training for staff on October 31, 2006.

## Compliance Assistance and Operations

Staff developed a Flare Minimization Plan (FMP) approval/implementation process, including detailed lists of information needed to approve FMPs, criteria for evaluation, and a schedule for public meetings. The Shell and Chevron refineries submitted FMPs that contained complete information. Staff met with Valero, ConocoPhillips and Tesoro refineries to review incomplete FMP submittals. After supplemental information was provided, staff determined ConocoPhillips, Tesoro, and Valero FMPs were complete and they were sent completion letters. Staff met with all 5 refineries and WSPA to discuss improvements to the FMPs such that the plans could be approved for minimizing flaring.

Flare monitoring data for August, September and October were added to the District website. Staff met with Hitachi Global Systems in San Jose to discuss their ISO 14001 Environmental Management System (EMS) and the monitoring data being collected for NOA. Staff from Compliance and Enforcement, Technical and Planning Divisions met to discuss the wood smoke strategy including emissions inventory, wintertime PM<sub>2.5</sub> concentrations, and future research. Pilot Data Collection Sampling for woodsmoke was conducted on December 1, 2006 December 19, 2006 at monitoring locations in Concord. Staff attended meetings of the Contra Costa County, Napa County and Santa Clara County Growers Associations to present the District's Open Burn Video "Burning Cleaner, Burning Better", and to provide information on District open burning regulation requirements. Staff conducted In-Service Training and the Hazardous Waste Operations and Emergency Response (HAZWOPER) class was completed. Defensive Driving training for inspectors was conducted. Staff received delivery of a new infra-red video camera that will allow detection of VOC leaks on equipment.

(See Attachment for Activities by County)

### ENGINEERING DIVISION – B. BATEMAN, DIRECTOR

#### Toxics Program

Staff completed a total of 93 Health Risk Screening Analyses (HRSAs) during the 4<sup>th</sup> quarter of 2006. The majority of these HRSAs were for diesel engine emergency generators and gas stations. A total of 391 HRSAs were completed in calendar year 2006.

Staff completed reviews of CEQA Health Risk Assessments for Eagle Rock Aggregate (Richmond), and Koch Carbon (Pittsburg), and conducted a PSD analysis for Tesla Power Plant (Livermore). Staff continued working on several other CEQA and PSD analyses for power plants and petroleum refineries.

Staff participated in CARB's process to revise the Airborne Toxic Control Measure (ATCM) for Chrome Plating Operations. CARB staff modified their ATCM proposal to address comments made by District staff and other interested parties, and District staff subsequently provided testimony at a CARB Public Hearing on December 7, 2006 in support of the modified amendments, which were then adopted by CARB. Staff continued to participate in the development of amendments to the Perchloroethylene Dry Cleaning ATCM, which are scheduled for consideration of adoption by CARB on January 25, 2007.

Staff received a draft Air Toxics Hot Spots Emissions Inventory Report (EIR) from Pacific Steel Casting Company (Berkeley), and provided preliminary comments on this EIR. The District provided the draft EIR to the City of Berkeley for review and comment by the City and other interested parties. The District expects that the EIR can be finalized in February 2007, so that it can be used in the preparation of a facility-wide Health Risk Assessment.

Staff continued to participate with CARB, and the Port of Oakland, in CARB's preparation of several Health Risk Assessments in the West Oakland community.

Staff participated in several meetings of the CAPCOA TARMAC (Toxics and Risk Management) Committee. TARMAC has been active in reviewing ATCMs (e.g., for diesel engines, dry cleaning, chrome plating), AB-2588 guidelines, AERMOD and HARP modeling issues, and is investigating potential sources that may contribute to ambient levels of acrylonitrile.

### **Title V Program**

Engineering Division staff continued to process Major Facility Review Permits (Title V permits and Synthetic Minor Operating permits) and a number of permit actions were finalized. Work is also underway to increase program efficiency so that Title V permit applications can be processed in a less resource-intensive manner.

Staff continued work to revise the Title V permits and Statements of Basis for the five Bay Area refineries. Reopening Revisions 2&3 for Chevron and ConocoPhillips were issued. The Reopening Revisions 2 & 3 for Tesoro and Valero were proposed to EPA, the review period has been completed, and final issuance is expected shortly. The Reopening Revision 2 for Shell was sent to EPA for a 45-day review on November 15, 2006.

### **Permit Evaluation Program**

In the 4<sup>th</sup> quarter of 2006, 411 new permit applications were received. During this period, 169 Authorities to Construct were issued, along with 399 Permits to Operate. Over 95 percent of permit application evaluations were completed within designated timeframes.

Engineering Division staff continued to actively participate in the District's Flare Working Group, and helped to identify detailed lists of items needed for approval of Flare Minimization Plans (FMPs) submitted by the five refineries. The District's Flare Project Team and Management Team met with WSPA and refinery personnel on December 19 to discuss the forthcoming FMP approvability tables, scheduling, capital projects, and FMP performance measurements.

Staff continued evaluations of major refinery permit applications, including Chevron's Energy and Renewal Project, ConocoPhillips' Clean Fuels Expansion Project, and Valero's VIP Modification Project. Engineering Division staff also provided assistance to CEQA lead agencies in their preparation of Environmental Impact Reports for two of these proposed projects.

Staff is evaluating several major power plant permit applications, including the new East Shore Energy Project (Hayward), Russell City Energy Center (Hayward), Los Medanos Energy Center (Pittsburg), and Tesla Power Project (San Jose). The Russell City and Tesla plants were previously permitted, but never built. The current applications are for permit modifications to the original proposed projects. The Los Medanos Energy Center, a cogeneration plant currently operating, is requesting a permit modification that would allow more flexibility for fuel sampling and source test reporting requirements.

Staff completed the permit review of a large landfill gas-to-energy project at Ox Mountain (San Mateo) that will meet all applicable air quality standards. Before the permit can be issued, however, staff must continue working with the U.S. EPA and U.S. Fish and Wildlife Service to ensure that all necessary endangered species protection measures are incorporated.

Staff continued work to implement the Statewide ATCM for stationary diesel engines. Recent activity includes: (1) modifying the permit conditions for permitted diesel engines to limit hours of operation per the ATCM, (2) clarifying ATCM requirements and monitoring, and (3) establishing policies/procedures to better handle the significant workload.

Staff participated in a meeting of the CAPCOA Engineering Managers Committee held in October.

### **Engineering Special Projects Program**

Engineering Division staff actively participated in the Business Production System project. Staff is participating in the Business Process Mapping/Improvement/Requirements Phase (Phase I of the project), and working closely with the consultants and Information Systems Services Division staff on mapping and investigation of issues that may improve operations.

Engineering Division staff provided continued support for rule development activities including pressure relief devices, combustion gas turbines, and reciprocating internal combustion engines. Staff submitted Best Available Control Technology updates for large industrial boilers to the CARB and U.S. EPA clearinghouses. A formal procedure for the development and approval of permit policies was also adopted.

Staff worked with resource recovery energy developers to facilitate the permitting of landfill gas to energy projects while maintaining stringent ozone and particulate matter mitigation standards. These landfill gas projects have the potential of providing a renewable, supplementary alternative source of energy, and the benefits of reducing some greenhouse gas emissions. The challenge is to ensure that “conventional” air pollutant impact mitigation is not compromised.

Staff met in October with California Energy Commission (CEC) staff in support of the CEC’s preparation of its 2007 Integrated Energy Policy Report (IEPR). This biannual IEPR report to the Governor and the Legislature is mandated by SB 1389. The District will provide comments, when requested by the CEC, on such energy related issues as the impact of energy supply and electricity power generation on air quality.

Engineering Division staff provided comments on the draft study completed by the District's contractor on mitigation measures for global warming gases emitted from permitted stationary sources.

**LEGAL DIVISION – B. BUNGER, DISTRICT COUNSEL**

In the 2<sup>nd</sup> QUARTER of Fiscal Year 2006-07, the District Counsel's Office received 192 Violations reflected in Notices of Violation ("NOVs") for processing between October and December 2006.

In the 2<sup>nd</sup> QUARTER of Fiscal Year 2006-07, Mutual Settlement Program staff initiated settlement discussions regarding civil penalties for 128 Violations reflected in NOVs. In addition, Mutual Settlement Program staff sent 10 Final 30 Day Letters regarding civil penalties for 13 Violations reflected in NOVs. Finally, settlement negotiations by Mutual Settlement Program staff resulted in collection of \$84,320 in civil penalties for 95 Violations reflected in NOVs.

In the 2<sup>nd</sup> QUARTER of Fiscal Year 2006-07, Counsel in the District Counsel's Office initiated settlement discussions regarding 62 civil penalties for Violations reflected in NOVs. Settlement negotiations by counsel in the District Counsel's Office resulted in collection of \$1,402,950 in civil penalties for 201 Violations.

**(See Attachment for Penalties by County)**

**PLANNING DIVISION – H. HILKEN, DIRECTOR**

**Community Air Risk Evaluation (CARE) Program**

Staff convened a CARE Task Force meeting on October 31, 2006 to discuss: 1) updates to maps for the Year 8 Carl Moyer program used to help prioritize grant funding; 2) comparisons of the CARE gridded emissions inventory of toxic compounds with ambient toxic measurements; and 3) collaboration with ARB on the West Oakland Health Risk Assessments (HRA). Staff participated in weekly meetings with ARB, the Port of Oakland, and the Port's contractors to discuss modeling and emissions inventory development for the West Oakland HRA. On December 13, 2006, staff participated in a joint meeting with ARB, the Port of Oakland, and community members to discuss the HRA and address concerns related to community review of technical aspects of the HRA. Staff presented information on the CARE program to the Contra Costa Council.

**Rule Development Program**

Staff presented proposed amendments to Regulation 8, Rule 5: Storage of Organic Liquids to the Board of Directors on October 18, 2006. The Board adopted the proposed amendments. Staff hosted a public workshop to consider amendments to Regulation 9, Rule 9: Nitrogen Oxides from Stationary Gas Turbines on October 13, 2006 and presented amendments to Reg. 9-9 at a public hearing at the December 6 Board of Directors meeting. The Board adopted the proposed amendments, and also adopted a Regulatory Schedule for 2007. Staff posted workshop notices, draft regulatory language and a workshop report for a new rule limiting emissions from commercial cooking equipment, Regulation 6, Rule 2. The four workshops were held at various locations throughout the Bay Area on November 14 and 15, 2006. Staff presented updates on Reg. 6-2, Reg. 9-9, and Regulation 9, Rule 8: Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines to the Stationary Source Committee on November 28, 2006. Staff met with: the California Council for Environmental and Economic Balance regarding the District's rule development efforts for 2007 and stationary internal combustion engines; Don Fisher of PG&E's Food Service Technology Center regarding commercial cooking equipment; Shell Refinery engineers regarding excess flare capacity and pressure relief devices; and the Landfill Gas To Energy Coalition to discuss landfill gas power generation projects. Staff attended ARB's first 2007 Architectural Coatings Suggested Control Measure workshop in Sacramento.

**Air Quality Planning Program**

Staff attended the CAPCOA Planning Managers Symposium at which staff led the climate change session. Staff met with ICLEI, MTC, PG&E and StopWaste.org on streamlining GHG emission inventory development. Staff attended ARB's 8-Hour SIP Symposiums and the Sacramento AQMD's 8-Hour Ozone SIP development workshop. Staff made a second presentation to the Brisbane Planning Commission regarding the draft air quality section for their general plan update. Staff continued to meet with the Port of Oakland and MTC on a LNG infrastructure project. Staff attended the UCLA Transportation and Land Use Symposium regarding climate change. Staff attended the I-80 corridor study meetings with MTC, ABAG, JPC, SACOG and SMAQMD. Staff hosted the Climate Protection Leadership Summit at the Yerba Buena Center for the Arts, which included 500 attendees and a keynote speech by Al Gore. Staff attended the California Energy Commission's public workshop on "Inventory of California's Greenhouse Gas Emissions and Sinks: 1992 2004" and ARB workshops on

AB 32 implementation. Staff continued to participate with the technical advisory committee for the Focusing Our Vision regional planning project.

## **Research and Modeling Program**

Staff updated emissions estimates from diesel engines in the Bay Area and a database for sensitive populations. This information was used by the Grant Programs Section in developing Carl Moyer Year 8 grant application materials. Staff participated in several Central California Ozone Study (CCOS) Technical Committee conference calls and meetings to establish additional CCOS projects, evaluate and improve emissions inventory for photochemical modeling, track the progress made by the CCOS contractors, and arrange for NOAA, a CCOS contractor, to operate the District's wind profiler in Livermore for the next three years. Staff participated in internal meetings to prepare and refine questions for the District's 2006-07 winter wood burning survey. Staff continued to study the relation between meteorology and the timing of odor complaint calls due to the operation of Pacific Steel Casting (PSC) Co. in Berkeley. Staff participated in U.S. EPA sponsored training to enhance technical skills needed for particulate matter data analysis, emissions inventory preparation and air quality modeling. At the request of the Director of Engineering, staff simulated the impact of ship emissions on Bay Area's ozone. Staff continued to analyze particulate matter data collected in the Bay Area and meteorological conditions that lead to exceedances of the new national 24-hour PM<sub>2.5</sub> standard (35 micrograms per cubic meter). Staff participated as part of a select group of experts to evaluate the U.S. EPA's ozone, particulate matter and air toxic data analysis and modeling programs. Staff has installed the U.S. EPA's air quality model CMAQ which is capable of simulating ozone, particulate matter and air toxics, and tested it over the Central California modeling domain. Staff participated in several teleconference discussions with ARB, CalTrans and neighboring air districts to evaluate and improve the estimation of emissions from motor vehicles and construction equipment.

## **Special Projects**

The District's Source Inventory of Bay Area Greenhouse Gas Emissions was published in November, 2006. This is the first such regional GHG inventory in California. The California Climate Action Registry certified the District's (in-house) 2005 emission inventory of GHG emissions for District Operations. This is the second certified inventory since we joined the Registry. Staff submitted the Annual Report of 2005 emissions data to Air Resources Board (ARB). Staff attended ARB's workshop on the new Emission Factor Model, EMFAC2007, ran and tested the model to examine the implications of the new information on the Bay Area Ozone Strategy, CARE program and photochemical modeling. Staff downloaded ARB's OFFROAD2007 model and started working with it. Staff is collecting diesel fuel usage data for on-road and off-road diesel vehicles operating in the Bay Area and will compare it with fuel data produced by EMFAC2007 and OFFROAD2007 models. Staff continued to work on the Base Year 2005 emission inventory. Staff assisted MTC staff in estimating the emissions reduction benefits from the Spare the Air free transit program.

**OUTREACH AND INCENTIVES – J. COLBURN, DIRECTOR****Spare the Air Day/Tonight**

Issued final press release and an opinion/editorial article announcing the close of the 2006 *Spare the Air Days* and the results of the Free Fare program, which were covered by print, television, and radio media. Based on survey data, more than 500,000 trips were eliminated by the 2006 STA outreach campaign resulting in approximately 32 tons of air pollution (NO<sub>x</sub>, ROG, PM) reduction for the six days that transit was free.

Announced the start of the District's *Spare the Air Tonight* season by participating in a Warrior's game on November 20, 2006. Also, staff e-mailed approximately 40,000 *AirAlert* subscribers, thanking them for their support during the summer *Spare the Air* season, and advising them that the winter *Spare the Air Tonight* season is officially underway.

To date, the 2006/2007 *Spare the Air Tonight* message has been covered more than 96 times on television news programs, approximately 90 times in print news articles, and extensively on KLIV, KPIX, KCBS, and KGO radio stations.

Seventy-three (73) packets of information was mailed regarding wintertime air quality and health to asthma clinics and health organizations around the Bay Area as a part of the District's *Spare the Air Tonight* outreach. Organizations can request additional materials to distribute to their clients.

**Community Outreach**

Coordinated four rule-development public workshops that were held in November, focusing on Regulation 6, Rule 2: Commercial Cooking Equipment. Staff also assisted in preparation and mailing of postcards notifying 17,000 Bay Area restaurants of the public meetings.

Coordinated four (4) Carl Moyer workshops that were held in December 2006. These informational workshops were to assist fleet owners and operators of heavy-duty diesel equipment in the nine-county Bay Area to apply for Carl Moyer grants.

Attended a meeting of the West Oakland Toxics Reduction Collaborative (WOTRC) Truck Incentives work group on October 17, 2006, and a regularly scheduled meeting of the East Palo Alto EJ Resource Team on October 19, 2006.

Attended the Port of Oakland's "Good Neighbor Breakfast," on Wednesday, November 1, 2006. Subjects presented and discussed included the Port's new management structure, updates to ongoing Port-related projects, and ballot initiatives affecting the Port and its neighbors.

Participated in a panel interview at the Port of Oakland on November 20, 2006. This selection process was for a facilitation service to support the coordination of a public involvement process for an Air Quality Management Plan at the Port of Oakland.

Continued work on community grants to the WOTRC, Berkeley's Eco-Center for community air monitoring around Pacific Steel Casting, and the Napa County Firewise Program.

Compiled a comprehensive inventory of all community based organizations in West Oakland.

Attended the North Richmond EJ resource meeting with the District's Executive Officer and Director of OID on November 16, 2006. Discussions included goods movement from regional ports including Richmond.

Attended a meeting with the Communities Against Airport Pollution (CAAP) on December 5, 2006 at the Mineta San Jose Airport. Staff addressed concerns regarding airport emissions and the feasibility of air monitoring in and around the airport.

Attended and participated in Technical Follow-up Meeting regarding the Risk Assessments for Diesel Particulate Matter from Goods Movement in West Oakland on December 13, 2006. The Directors of OID and Planning attended. This meeting was to review the items that will be presented in a public meeting in West Oakland on January 31, 2007.

Prepared a notice announcing a public meeting on January 31, 2007 regarding Health Risk Assessments (HRA) in West Oakland. The HRA's are a joint project between the Air District and the California Air Resources Board (CARB) intended to evaluate health risks from diesel exhaust at the Port and in West Oakland. The meeting will be held at the West Oakland Senior Center, 1724 Adeline Street, Oakland, CA, from 6-8:00 p.m.

The Spare the Air resource teams continued to meet through this quarter. The Sonoma and Santa Clara County teams are focusing on traffic reduction at schools. The teams have given support for grant writing efforts for Safe Routes to School programs in Sebastopol and Milpitas and for continuing Analy High School's Climate Change Challenge in Sebastopol. The teams also gave funds for additional bike racks at a middle school in Petaluma.

### **Public Information and Media**

Issued final press release and an opinion/editorial article announcing the close of the 2006 summer smog season and the results of the Free Fare program, which were covered by print, television, and radio media. Based on survey data, more than 500,000 trips were eliminated by the 2006 STA outreach campaign resulting in approximately 32 tons of air pollution (NO<sub>x</sub>, ROG, PM) reduction for the six days that transit was free.

Announced the start of the District's Spare the Air Tonight season by participating in a Warrior's game on November 20, 2006. Also, staff e-mailed approximately 40,000 *AirAlert* subscribers, thanking them for their support during the summer Spare the Air season, and advising them that the winter Spare the Air Tonight season is officially underway.

To date, the 2006/2007 Spare the Air Tonight message has been covered more than 95 times on television news programs, approximately 84 times in print news articles, and extensively on KLIV, KPIX, KCBS, and KGO radio stations.

The 2005 Air Pollution Summary was completed and posted online. This table summarizes the air pollution data the District collects from its air quality monitoring network, listing the number of times each year that each station records pollutant concentrations in excess of the federal or California air quality standards, and recording the highest annual reading for each pollutant at each station.

Issued press release announcing the “Climate Protection Summit” held November 10, 2006 and arranged interviews with District Board of Directors, Executive Officer and staff with television, radio and print media.

Interviewed by KTVU on November 27, 2006, regarding the District’s investigation of dust nuisance from ongoing construction at Oyster Point. Staff was also interviewed by the Marin Independent Journal regarding odor compliant investigation in Bahia community of Novato.

Responded to media inquiries regarding Maersk Shipping Lines’ voluntary decision to switch over to low-sulfur distillate fuel in order to reduce emissions at California ports and inquiries regarding the CARE Phase I findings report.

The October/November 2006 issue of the League of Women Voters’ Bay Area Monitor newsletter featured an article on the Air District’s climate protection activities. The article entitled “Protecting California’s Climate” was written and edited in consultation with staff.

### **Grant Programs**

Presented recommendations for the selection of three scrapping contractors for the Vehicle Buy Back Program (VBB), the implementation of the Year 8 funding cycle of the Carl Moyer Program (CMP), and the Transportation Fund for Clean Air (TFCA) Regional Fund grant awards at the October 16, 2006, meeting of the Mobile Source Committee (MSC).

Met with California Air Resources Board (CARB) representatives on October 20, 2006, to discuss issues associated with the CMP, the Lower-Emission School Bus Program and the use of AB 923 revenues. Additionally, coordinated actions related to an upcoming audit of the CMP and the Lower-Emission School Bus Program to be performed by the California Air Resources Board and the State Department of Finance.

Attended and made a presentation on the CMP at the October 31, 2006 meeting of the Task Force of the CARE Program, as an introduction to a discussion on the methodology to comply with the requirements of AB 1390.

Completed the reevaluation of TFCA Regional Fund grant applications for fiscal year 2006/2007, and presented the respective staff report at the November 20, 2006 MSC meeting. The MSC considered, and approved to recommend to the Board of Directors, staff’s recommendations for TFCA Regional Fund grant awards for fiscal year 2006/2007.

Participated in a meeting of the Zero Emission Bus Work Group on November 21, 2006 at MTC’s offices in Oakland, to discuss potential Air District grant opportunities for the implementation of zero-emission bus projects.

Met with Director Hal Brown and several staff members from public agencies located in Marin County to discuss details and opportunities associated with the Air District's grant programs on November 27, 2006.

Participated in, and made a presentation on the Air District's grant programs for engine-based projects at, the Diesel Emissions Reductions Funding Forum in Oakland on November 6, 2006, an event organized by the US Environmental Protection Agency, Region IX.

Participated in, and made a presentation on the Air District's CMP at, the Public Fleet Rule Workshop in Oakland on November 29, 2006, an event organized by CARB.

Participated in the CAPCOA Mobile Source and Fuels Committee meeting, via conference call, on November 29, 2006.

Participated in the entrance conference on December 11-12, 2006 with staff from the Bureau of State Audits, who began an audit of the CMP.

Attended a meeting of the Bay Area Congestion Management Agencies Directors to provide answers related to proposed policies for the TFCA County Program Manager Fund on December 15, 2006.

Facilitated four public grant application workshops in San Francisco, Oakland, Vallejo and San Jose, and subsequently received more than 180 grant applications requesting over \$32 million in funding for the Year 8 funding cycle of the CMP.

Two new Environmental Planners, Ryan Bell and Jeffrey Buss, joined the Grant Programs Section during this quarter.

## TECHNICAL DIVISION – G. KENDALL, DIRECTOR

### Air Quality

There were no exceedances of the State or national ozone standards during the quarter due to reduced sunlight levels and cool temperatures. In winter, particulate matter is the primary pollutant of concern in the Bay Area. Historically, PM<sub>2.5</sub> levels rarely reached the 24-hour national standard in the Bay Area. However, in December 2006 the EPA lowered the 24-hour national PM<sub>2.5</sub> standard from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup>.

From October through December 2006 there were 11 days when the new PM<sub>2.5</sub> standard was exceeded, based on filter based measurements. The first day was November 20, 2006 the first day of Spare the Air Tonight, and the remaining 10 days were in December. The worst air quality of the quarter occurred on Christmas Day when the Redwood City site recorded PM<sub>2.5</sub> levels in the Unhealthy category. On that day other Bay Area sites also recorded PM<sub>2.5</sub> levels in the Unhealthy for Sensitive Groups category.

## **Air Monitoring**

All 28 air monitoring stations were operational from October through December 2006, with all equipment operating on routine, EPA-mandated schedules. The increased wintertime sampling schedule for PM<sub>2.5</sub> began at designated stations on October 1, 2006. Ozone monitors at six satellite stations were shut down during the low ozone season on December 1, 2006 as allowed under a waiver granted by the EPA.

## **Meteorology and Forecasting**

October through December 2006 air quality data were quality assured and entered into the EPA Air Quality System (AQS) database. Staff began entering continuous PM<sub>2.5</sub> data into AQS, starting with January 2004 data. Staff continued to make daily air quality and burn forecasts. The Stubble Burn forecasting season ended on December 31, 2006 and The Spare the Air Tonight season began on November 20, 2006. Staff inspected the GLM networks at the Tesoro, Valero, and Shell Refineries. One Staff member attended the National Air Monitoring Conference in Las Vegas Nov 6-8.

## **Quality Assurance**

The Quality Assurance conducted regular, mandated performance audits on eighty-eight analyzers at 23 Air District monitoring stations. Staff also participated in CARB audits at 6 Air District monitoring stations.

Hydrogen Sulfide (H<sub>2</sub>S) and Sulfur Dioxide (SO<sub>2</sub>) monitors were audited at the ConocoPhillips San Francisco Area Refinery and the ConocoPhillips Carbon Plant Ground Level Monitoring (GLM) networks. All of the GLM monitors passed the audit.

QA staff conducted mobile surveillance for H<sub>2</sub>S gas in a residential neighborhood of Novato, after complaints were received from the residents. The source of the H<sub>2</sub>S gas was determined to be a stagnant pond, adjacent to the Petaluma River. Sampling was conducted on December 6<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup>. Forty-seven violations of the Air District 3-minute standard (60 ppb) and 3 violations of the Air District's 1-hour standard (30 ppb) were recorded on December 15<sup>th</sup>.

## **Laboratory**

In addition to ongoing routine analyses, seventeen PM<sub>2.5</sub> filter samples from the Caldecott Tunnel were analyzed for OC/EC and seventeen samples from the Caldecott Tunnel were analyzed for ethanol as part of an ongoing study of motor vehicle emissions with UC Berkeley.

The laboratory began analyzing ambient air samples from the San Jose monitoring station for carbonyls as required by a grant for EPA's National Air Toxics Trends Study (NATTS).

Four bag-house samples from Pacific Steel Casting, Berkeley were analyzed for lead, nickel, zinc, chromium, cadmium and manganese content.

In December the laboratory successfully passed the bi-annual National Voluntary Laboratory Accreditation Program (NVLAP) proficiency audit for asbestos analysis.

**Source Test**

Ongoing Source Test activities included Continuous Emissions Monitoring (CEM) Field Accuracy Tests, source tests, gasoline cargo tank testing, and evaluations of tests conducted by outside contractors. The ConocoPhillips Rodeo Refinery's open path monitor monthly reports for September, October, and November were reviewed. The Source Test Section provided testing and technical support for the District's Rule Development efforts for Refinery Cooling Towers, Stationary Gas Turbines, Gasoline Bulk Terminals, and Char-broilers.

**These facilities have received one or more Notices of Violations**  
**Report period: October 1, 2006 – December 31, 2006**

**Alameda County**

<b>Status</b>	<b>Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
	10/23/2006	A0703	Pacific Steel Casting Co	Berkeley	Public Nuisance
	11/28/2006	A8833	CEMEX	Berkeley	Particulate Matter & Visible Emissions
	11/21/2006	C0927	Safeway Store #1953	Dublin	Gasoline Dispensing Facilities
	10/05/2006	C9247	ConocoPhillips	Fremont	Gasoline Dispensing Facilities
	11/27/2006	B2297	Finisar Corporation	Fremont	Failure to Meet Permit Conditions
	11/27/2006	A0792	Washington Hospital	Fremont	Failure to Meet Permit Conditions
	10/23/2006	C8775	All American Oil	Hayward	Permit to Operate
	11/07/2006	C9598	Harder Road Beacon	Hayward	Gasoline Dispensing Facilities
	12/18/2006	B2106	D W Nicholson Corporation	Hayward	Failure to Meet Permit Conditions
	11/27/2006	A5095	Republic Services Vasco Road, LLC	Livermore	Failure to Meet Permit Conditions
	12/18/2006	A5095	Republic Services Vasco Road, LLC	Livermore	Solid Waste Disposal Sites
	11/28/2006	C0733	Chevron Stevenson	Newark	Permit to Operate
	10/23/2006	C9727	The Southland 7-Eleven SS#32181	Oakland	Failure to Meet Permit Conditions
	11/27/2006	B4279	CENVEO	Oakland	Graphics Arts Printing & Coating Operations
	11/27/2006	A0591	East Bay Municipal Utility District	Oakland	Failure to Meet Permit Conditions
	11/28/2006	C0608	Quik Stop #56	Oakland	Failure to Meet Permit Conditions
	12/19/2006	B2527	Mirage Auto Body & Paint	Oakland	Motor Vehicle & Mobile Equip Coating Operations
	11/21/2006	D0361	Valero Refining Co SS#7399	Pleasanton	Gasoline Dispensing Facilities
	12/14/2006	C9617	Earl Adams Tile and Plaster	Pleasanton	Visible Emissions
	10/23/2006	C8867	Bayview Shell #136019	San Leandro	Gasoline Dispensing Facilities
	11/27/2006	A4217	Gary's Heat Cleaning	San Leandro	Permit to Operate
	12/18/2006	B8109	Agribag	San Leandro	Graphics Arts Printing & Coating Operations; Authority to Construct
	11/21/2006	C8384	Valero	San Lorenzo	Permit to Operate
	11/20/2006	A0083	United States Pipe & Foundry Company, LLC	Union City	Public Nuisance

**These facilities have received one or more Notices of Violations  
Report period: October 1, 2006 – December 31, 2006 – Continued**

**Contra Costa County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
12/06/2006	D1203	Golf Course Plaza Gas	Antioch	Failure to Meet Permit Conditions
11/07/2006	C9751	Shanks Chevron	Brentwood	Gasoline Dispensing Facilities
12/14/2006	C5455	Saver's Gas	Brentwood	Gasoline Dispensing Facilities
12/14/2006	A5987	Dryclean USA	Clayton	Petroleum Dry Cleaning Operations
12/14/2006	B0334	Swan Cleaners	Concord	Petroleum Dry Cleaning Operations
12/19/2006	R7772	Corey Seevers	Hercules	Asbestos Demolition, Renovation & Mfg.
10/23/2006	A0011	Shell Martinez Refinery	Martinez	Standards of Performance for New Stationary Sources; Equipment Leaks
10/23/2006	B2758	Tesoro Refining and Marketing Company	Martinez	Wastewater (Oil - Water) Separators
12/06/2006	A0011	Shell Martinez Refinery	Martinez	Excess Sulfur Dioxide
12/12/2006	A7034	Pacific Atlantic Terminals LLC	Martinez	Major Facility Review (Title V)
12/14/2006	A0973	Crystal Cleaners	Martinez	Petroleum Dry Cleaning Operations
12/18/2006	B2758	Tesoro Refining and Marketing Company	Martinez	Failure to Meet Permit Conditions; Major Facility Review (Title V); Equipment Leaks; Storage of Organic Liquids
12/06/2006	C9567	Gas-N-Save	Oakley	Permit to Operate
12/06/2006	B6277	IFCO Systems	Oakley	Major Facility Review (Title V)
10/23/2006	C8299	The Pump House	Pinole	Permit to Operate
11/07/2006	C1464	Bedrock Pinole Chevron #4014	Pinole	Authority to Construct; Permit to Operate
12/18/2006	C8299	The Pump House	Pinole	Permit to Operate
10/16/2006	A0227	Criterion Catalysts Company LP	Pittsburg	Continuous Emission Monitoring & Recordkeeping Procedures; Major Facility Review (Title V)
10/16/2006	C1489	Seven-Eleven #16693	Pittsburg	Gasoline Dispensing Facilities
10/02/2006	R8082	TJS Leasing & Holding	Richmond	Gasoline Bulk Terminals & Gasoline Delivery Vehicles
10/05/2006	R8090	Beneto Tank Lines	Richmond	Gasoline Bulk Terminals & Gasoline Delivery Vehicles
10/16/2006	A5462	Bio-Rad Laboratories	Richmond	Failure to Meet Permit Conditions

**These facilities have received one or more Notices of Violations**  
**Report period: October 1, 2006 – December 31, 2006 – Continued**

**Contra Costa County**  
**(Continued)**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
10/16/2006	B2076	State of California	Richmond	Failure to Meet Permit Conditions
10/24/2006	A1840	West Contra Costa County Landfill	Richmond	Solid Waste Disposal Sites
10/27/2006	A1396	Container Management Service-LLC	Richmond	Failure to Meet Permit Conditions
11/02/2006	A0023	General Chemical West LLC	Richmond	Public Nuisance
11/02/2006	A1840	West Contra Costa County Landfill	Richmond	Solid Waste Disposal Sites
11/16/2006	A0010	Chevron Products Company	Richmond	Flare Monitoring at Petroleum Refineries
12/18/2006	B1220	East Bay Laser Cutting	Richmond	Surface Coating of Misc Metal Parts & Products
10/27/2006	A0016	ConocoPhillips - San Francisco Refinery	Rodeo	Continuous Emission Monitoring & Recordkeeping Procedures; Major Facility Review (Title V); Process Vessel Depressurization; Gasoline Dispensing Facilities
11/28/2006	C8906	Top Food and Gas	San Pablo	Failure to Meet Permit Conditions
10/16/2006	C8371	San Ramon Bedrock	San Ramon	Permit to Operate
12/14/2006	C1689	Chevron Station #96956	San Ramon	Failure to Meet Permit Conditions
12/14/2006	D0400	Valero Refining Co SS#7974	San Ramon	Gasoline Dispensing Facilities
12/06/2006	A3391	Americlean	Walnut Creek	Petroleum Dry Cleaning Operations
12/06/2006	A2528	Varella Cleaners	Walnut Creek	Petroleum Dry Cleaning Operations

**Marin County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
12/18/2006	R9446	Philip Sheridan	Novato	Open Burning
11/1/2006	Q3296	Union Square Building LLP	San Rafael	Asbestos Demolition, Renovation & Mfg.
12/14/2006	C0420	Shatzki & Co	San Rafael	Gasoline Dispensing Facilities

**Napa County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
12/18/2006	B5370	JAV Auto Body	Napa	Failure to Meet Permit Conditions; Motor Vehicle & Mobile Equipment Coating Operations

**These facilities have received one or more Notices of Violations**  
**Report period: October 1, 2006 – December 31, 2006 – Continued**

**San Francisco County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
10/05/2006	R8177	Jacqueline M. Holland	San Francisco	Asbestos Demolition, Renovation & Mfg.
11/20/2006	R8858	500-734 DE, LLC/Michael Dayan	San Francisco	Asbestos Demolition, Renovation & Mfg.
11/28/2006	C8824	Pacific Heights Chevron	San Francisco	Gasoline Dispensing Facilities
12/01/2006	Q3315	Matrix Seismic Corporation	San Francisco	Asbestos Demolition, Renovation & Mfg.
12/18/2006	R9438	Lennar BVHP, LLS	San Francisco	Naturally Occurring Asbestos

**San Mateo County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
11/07/2006	A4021	SFPP, LP	Brisbane	Failure to Meet Permit Conditions
11/14/2006	A5897	Cole HD Colma CA, LP	Colma	Permit to Operate
12/14/2006	L8898	Westlake Village Apts	Daly City	Asbestos Demolition, Renovation & Mfg.
10/30/2006	A0468	Romic Environmental Technologies Corporation	East Palo Alto	Public Nuisance
11/07/2006	C9780	Loma Market	Loma Mar	Authority to Construct; Permit to Operate; Gasoline Dispensing Facility
12/14/2006	R9390	Sand Channel Green, Inc.	Menlo Park	Major Facility Review (Title V)
12/27/2006	R4762	City of San Mateo Parks & Rec Dept	San Mateo	Authority to Construct; Permit to Operate
12/14/2006	A8362	A Silvestri Corp	South San Francisco	Failure to Meet Permit Conditions

**Santa Clara County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
11/28/2006	C3406	Sunny Oak's Valero	Campbell	Gasoline Dispensing Facilities
11/09/2006	B2183	Metcalf Energy Center	Coyote	Failure to Meet Permit Conditions
10/02/2006	A0017	Hanson Permanente Cement	Cupertino	Major Facility Review (Title V)
11/20/2006	A2981	Coast Oil Company, LLC	Gilroy	Gasoline Dispensing Facilities
11/20/2006	D1337	Jack in the Box Quick Stuff #7760	Gilroy	Gasoline Dispensing Facilities
11/20/2006	C7838	Casa De Fruta Chevron	Hollister	Gasoline Dispensing Facilities
11/20/2006	C3535	Los Gatos Chevron	Los Gatos	Gasoline Dispensing Facilities

**These facilities have received one or more Notices of Violations**  
**Report period: October 1, 2006 – December 31, 2006 – Continued**

**Santa Clara County**  
**(Continued)**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
11/20/2006	C7035	Los Gatos-Almaden Chevron	Los Gatos	Gasoline Dispensing Facilities
12/14/2006	A6081	Gatito Cleaners	Los Gatos	Perc & Synthetic Solvent Dry Cleaning Operations
12/19/2006	B0438	Headway Technologies Inc	Milpitas	Failure to Meet Permit Conditions
11/09/2006	A8765	Greif Bros Corporation	Morgan Hill	Failure to Meet Permit Conditions
10/23/2006	C9804	ARCO Facility #09601-ERLINDA DE LOS SANTOS	San Jose	Gasoline Dispensing Facilities
10/23/2006	C8003	Unocal #5995	San Jose	Gasoline Dispensing Facilities
10/23/2006	C5445	World Oil Company	San Jose	Gasoline Dispensing Facilities Parametric Monitoring & Recordkeeping Procedures; Failure to Meet Permit Conditions
11/09/2006	A4020	SFPP, LP	San Jose	Gasoline Dispensing Facilities
11/20/2006	C4001	Chevron #6139	San Jose	Gasoline Dispensing Facilities
11/21/2006	D0458	Auto Pride Car Wash	San Jose	Gasoline Dispensing Facilities
11/28/2006	C9809	McKee Beacon Service	San Jose	Permit to Operate
11/28/2006	C0541	Petro America	San Jose	Gasoline Dispensing Facilities
12/04/2006	R9211	Asbestos Removal & Insulations Co.	San Jose	Asbestos Demolition, Renovation & Mfg.
12/14/2006	A5766	All Auto Body	San Jose	Permit to Operate
12/14/2006	B0547	American Custom Marble, Inc	San Jose	Authority to Construct; Permit to Operate
12/18/2006	D0458	Auto Pride Car Wash	San Jose	Gasoline Dispensing Facilities
12/18/2006	B0751	Micrel Semiconductor Inc	San Jose	Failure to Meet Permit Conditions
10/23/2006	B6862	Cabinet Supply Co	San Martin	Authority to Construct; Permit to Operate
11/21/2006	C5339	San Martin Gas & Mart	San Martin	Gasoline Dispensing Facilities

**These facilities have received one or more Notices of Violations**  
**Report period: October 1, 2006 – December 31, 2006 – Continued**

**Solano County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
11/06/2006	R8764	Roy Lawrence	American Canyon	Motor Vehicle & Mobile Equip Coating Operations
11/20/2006	C9489	Gas City	Benicia	Gasoline Dispensing Facilities
12/18/2006	C9647	Benicia Shell (cardlock site)	Benicia	Gasoline Dispensing Facilities
12/20/2006	C9588	Lake Herman/Benicia Shell	Benicia	Gasoline Dispensing Facilities
12/19/2006	B3301	Star Auto Body	Fairfield	Failure to Meet Permit Conditions
11/06/2006	A2039	Potrero Hills Landfill, Inc	Suisun City	Failure to Meet Permit Conditions
10/16/2006	C4724	Chevron	Vallejo	Gasoline Dispensing Facilities
10/23/2006	C9631	J & R Gas and Mini Mart	Vallejo	Gasoline Dispensing Facilities

**Sonoma County**

<b>Status Date</b>	<b>Site #</b>	<b>Site Name</b>	<b>City</b>	<b>Regulation</b>
10/05/2006	A1541	Stony Point Rock Quarry, Inc	Cotati	Failure to Meet Permit Conditions
10/02/2006	R8069	Eric Sebald	Petaluma	Motor Vehicle & Mobile Equip Coating Operations
10/04/2006	C4814	Royal Coach Carwash	Rohnert Park	Gasoline Dispensing Facilities
10/16/2006	D0698	Costco Gasoline Loc No 659	Rohnert Park	Failure to Meet Permit Conditions
10/20/2006	B4845	Santa Rosa/Carrera Plating	Santa Rosa	Failure to Meet Permit Conditions
11/16/2006	R8929	Econoline Signs	Santa Rosa	Authority to Construct; Permit to Operate
12/14/2006	C5007	Gas Mart	Santa Rosa	Gasoline Dispensing Facilities
12/18/2006	A5223	Flex Products Inc	Santa Rosa	Failure to Meet Permit Conditions
12/04/2006	Q4348	Spirit of Christmas Tree Farm	Sebastopol	Open Burning

**Closed NOV's with Penalties by County  
October 2006 – December 2006**

**Alameda**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
ABE Petroleum - Olympic Oil	C8930	Hayward	\$200	1	Oct
ARCO Facility #06148 - BALAJI ANGLE	C8818	Oakland	\$250	1	Oct
PE Berkeley, Inc	B1326	Berkeley	\$1,500	1	Oct
R B Construction	L6353	Fremont	\$1,500	1	Oct
Raintree Carwash	C9033	San Leandro	\$150	1	Oct
SAVE ON GAS	C0279	Oakland	\$1,250	2	Oct
Seminary Gas	C8544	Oakland	\$750	2	Oct
Isola USA Corp	A3024	Fremont	\$1,000	1	Nov
PABCO Gypsum	A0153	Newark	\$5,000	1	Nov
Pacific Steel Casting Co-Plant #2	A0703	Berkeley	\$27,000	9	Nov
Pleasanton Car Wash	D0435	Pleasanton	\$650	2	Nov
Solstice Press	B2075	Oakland	\$500	1	Nov
USA Petroleum	C0443	Livermore	\$350	1	Nov
Valero	C8384	San Lorenzo	\$850	2	Nov

**Closed NOV's with Penalties by County  
October 2006 – December 2006**

**Alameda (continued)**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Bayview Shell #136019	C8867	San Leandro	\$250	1	Dec
Cleveland Wrecking	K0833	Oakland	\$1,200	1	Dec
Harder Road Beacon	C9598	Hayward	\$150	1	Dec
Kwik Kleeners	A0898	San Leandro	\$800	2	Dec
Label Art	A7476	Oakland	\$1,000	1	Dec
Owens-Brockeway Glass Container Inc	A0030	Oakland	\$8,000	1	Dec
Rolls Royce	A0615	Oakland	\$400	1	Dec
Tri Valley Shell #135442	C9554	Livermore	\$750	1	Dec
Valero Refining Co SS#7983	D0359	Fremont	\$300	1	Dec

<b>\$53,800</b>	<b>36</b>
<b>Total \$ Collected</b>	<b>Total Violations Closed</b>

**Closed NOV's with Penalties by County  
October 2006 – December 2006**

**Contra Costa**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Beneto Bulk Transport, LLC	N1032	Richmond	\$2,000	1	Oct
Beneto Bulk Transport, LLC	N1032	Martinez	\$2,500	1	Oct
Chevron Products Company	A0010	Richmond	\$86,500	14	Oct
ConocoPhillips - San Francisco Refinery	A0016	Rodeo	\$100,000	1	Oct
Pitcock Petroleum Inc	C5234	Pleasant Hill	\$500	1	Oct
ST Shore Terminals LLC	A0581	Crockett	\$256,500	26	Oct
TRC	B2967	Antioch	\$10,500	12	Oct
ConocoPhillips - San Francisco Refinery	A0016	Rodeo	\$96,000	19	Nov
San Pablo Gas and Mini Mart	D0220	San Pablo	\$200	1	Nov
USA #20	C5810	San Pablo	\$200	1	Nov
California Pacific Holdings	Q7035	Santa Rosa	\$1,000	1	Dec
Criterion Catalysts Company LP	A0227	Pittsburg	\$1,500	2	Dec
GWF Power Systems,LP (Site 5)	A3246	Pittsburg	\$1,000	2	Dec
Keller Canyon Landfill Company	A4618	Pittsburg	\$9,000	3	Dec
Lone Tree Gas & Food	C0024	Antioch	\$2,500	2	Dec

**Closed NOV's with Penalties by County  
October 2006 – December 2006**

**Contra Costa (continued)**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Oak Grove Chevron	C7726	Concord	\$500	1	Dec
Pacific Atlantic Terminals LLC	A7034	Martinez	\$405,000	27	Dec
S R Quality Painting	N8239	Pleasant Hill	\$2,500	6	Dec
Sisters Cleaners	A4457	Pleasant Hill	\$500	1	Dec
Tesoro Refining and Marketing Company	B2758	Martinez	\$200,000	31	Dec
			<b>\$1,178,400</b>	<b>153</b>	
			<b>Total \$ Collected</b>	<b>Total Violations Closed</b>	

**Marin**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Rich Readimix Concrete, Inc	A1360	Greenbrae	\$1,500	2	Nov
Union Square Building LLP	Q0949	San Rafael	\$45,000	6	Nov

**\$46,500**  
**8**  
**Total \$ Collected**  
**Total Violations Closed**

**Closed NOV's with Penalties by County  
October 2006 – December 2006**

**Napa**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Salvador Chevron	D0471	Napa	\$400	1	Oct

**\$400**

**Total \$  
Collected**

1  
**Total  
Violations  
Closed**

**San Francisco**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Mirant Potrero, LLC	A0026	San Francisco	\$4,250	1	Oct
Bridge Point Builders, Inc.	R3763	San Francisco	\$4,000	2	Nov
Demolition Inc.	Q0949	San Francisco	\$10,000	2	Nov
Stephen Brett	Q0949	San Francisco	\$40,000	4	Nov
U.S.A. Hauling	Q0949	San Francisco	\$1,000	2	Nov
Fairmont Hotel	A4525	San Francisco	\$300	1	Dec
Hang Construction	Q5661	San Francisco	\$750	1	Dec
Lombard French Cleaners	B2642	San Francisco	\$800	1	Dec
Matrix Seismic Corporation	Q3315	San Francisco	\$5,000	2	Dec
San Francisco Municipal Railway	A8420	San Francisco	\$200	1	Dec
Your Energy Source	Q1190	San Francisco	\$1,600	2	Dec

**\$67,900**

**Total \$  
Collected**

**19**

**Total  
Violations  
Closed**

**Closed NOV's with Penalties by County  
OCTOBER 2006 – DECEMBER 2006**

**San Mateo**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Chevron Station #9-0571	C2781	Burlingame	\$400	1	Oct
Genentech, Inc	A1257	South San Francisco	\$1,250	1	Oct
Neighborhood Mart #2	C5943	Montara	\$400	1	Oct
South Bay Marble Inc	A6107	San Carlos	\$750	1	Oct
Cole HD Colma CA, LP	A5897	Colma	\$500	1	Nov
Intertek Testing Services NA, Inc	B5787	Menlo Park	\$1,000	1	Nov
ABC Cleaners	A9791	San Carlos	\$150	1	Dec
City of San Mateo Parks & Recreation Dept	R4762	San Mateo	\$1,405	2	Dec
Gas Recovery Systems, Inc	B1668	Menlo Park	\$2,000	1	Dec
Royal Auto Limo Repair	B7329	South San Francisco	\$750	2	Dec

<b>\$8,605</b>	<b>12</b>
<b>Total \$ Collected</b>	<b>Total Violations Closed</b>

**Closed NOV's with Penalties by County  
OCTOBER 2006 – DECEMBER 2006**

**Santa Clara**

Site Name	Site Occurrence	City	Penalty Amount	# of Violations Closed	Month
Beneto Bulk Transport, LLC	N1032	San Jose	\$2,000	1	Oct
Bill & Debbie Jacobson	R3532	Morgan Hill	\$500	1	Oct
Boston Scientific Corporation	B1251	San Jose	\$1,000	1	Oct
Casa De Fruta Chevron	C7838	Hollister (Unincorporated)	\$1,500	1	Oct
CEMEX	A3259	Santa Clara	\$6,750	5	Oct
Chevron Products Company	A0049	San Jose	\$22,900	6	Oct
Classic Car Wash	C3830	San Jose	\$1,250	1	Oct
Gas N Save	D0490	San Jose	\$250	1	Oct
Q Cleaners	B0734	San Jose	\$500	1	Oct
Z-Con Specialty Services	P7289	San Jose	\$750	1	Oct
ARCO Facility #02153 - Wasu D Pillay	C5610	Santa Clara	\$500	1	Nov
Calderons Station	C7194	San Jose	\$650	1	Nov
Chevron #9-5771	C3876	San Jose	\$275	1	Nov
Gas Recovery Systems, Inc	B1670	San Jose	\$6,000	1	Nov
Linear Technology Corp	B2417	Milpitas	\$1,500	1	Nov
Valley Fair Market and Gas	C9705	San Jose	\$750	1	Nov
Alum Rock Chevron	C9526	San Jose	\$1,250	1	Dec

**Closed NOV's with Penalties by County  
OCTOBER 2006 – DECEMBER 2006**

**Santa Clara (continued)**

<b>Site Name</b>	<b>Site Occurrence</b>	<b>City</b>	<b>Penalty Amount</b>	<b># of Violations Closed</b>	<b>Month</b>
Bluegrass Mills Holding Co	A0732	Santa Clara	\$4,000	1	Dec
Camaro Cleaners	A3285	Sunnyvale	\$750	1	Dec
Clean Harbors San Jose, LLC	B1925	San Jose	\$500	2	Dec
Gas Recovery Systems, Inc	B1670	San Jose	\$21,000	6	Dec
Ms Sylvia Bellinghausen	R6737	Gilroy	\$400	1	Dec
San Jose/Santa Clara Water Pollution Control	A0778	San Jose	\$7,450	5	Dec
Silicon Valley Power Pico Power Plant	B4991	Santa Clara	\$10,000	5	Dec
Solectron California (B15)	B1007	Milpitas	\$750	1	Dec
			<b>\$93,175</b>	<b>48</b>	
			<b>Total \$ Collected</b>	<b>Total Violations Closed</b>	

**Closed NOV's with Penalties by County  
OCTOBER 2006 – DECEMBER 2006**

**Solano**

<b>Site Name</b>	<b>Site Occurrence</b>	<b>City</b>	<b>Penalty Amount</b>	<b># of Violations Closed</b>	<b>Month</b>
APEX Bulk Commodities	B3271	American Canyon	\$5,000	1	Oct
ARCO Facility #00761	C7890	Vallejo	\$1,000	1	Oct
Beneto Bulk Transport, LLC	N1032	Benicia	\$2,500	1	Oct
Fast & Easy Mart	C9662	Benicia	\$200	1	Oct
Sabek Oil Company	F5046	Benicia	\$1,500	2	Oct
Chevron	C4724	Vallejo	\$650	2	Nov
Tabor Shell	C6491	Fairfield	\$500	1	Nov
Woodline Cabinets	B5802	Fairfield	\$1,500	1	Nov

**\$12,850**

**10**

**Total \$  
Collected**

**Total  
Violations  
Closed**



## ACRONYMS AND TERMINOLOGY

ABAG	Association of Bay Area Governments
AC	Authority to Construct issued to build a facility (permit)
AMBIENT	The surrounding local air
AQI	Air Quality Index
ARB	[California] Air Resources Board
ATCM	Airborne Toxic Control Measure
BAAQMD	Bay Area Air Quality Management District
BACT	Best Available Control Technology
BANKING	Applications to deposit or withdraw emission reduction credits
BAR	[California] Bureau of Automotive Repair
BARCT	Best Available Retrofit Control Technology
BIODIESEL	A fuel or additive for diesel engines that is made from soybean oil or recycled vegetable oils and tallow. B100=100% biodiesel; B20=20% biodiesel blended with 80% conventional diesel
BTU	British Thermal Units (measure of heat output)
CAA	[Federal] Clean Air Act
CAL EPA	California Air Resources Board
CCAA	California Clean Air Act [of 1988]
CCCTA	Contra Costa County Transportation Authority
CEQA	California Environmental Quality Act
CFCs	Chlorofluorocarbons
CMA	Congestion Management Agency
CMAQ	Congestion Management Air Quality [Improvement Program]
CMP	Congestion Management Program
CNG	Compressed Natural Gas
CO	Carbon monoxide
EBTR	Employer-based trip reduction
EJ	Environmental Justice
EIR	Environmental Impact Report
EPA	[United States] Environmental Protection Agency
EV	Electric Vehicle
HC	Hydrocarbons
HOV	High-occupancy vehicle lanes (carpool lanes)
hp	Horsepower
I&M	[Motor Vehicle] Inspection & Maintenance ("Smog Check" program)
ILEV	Inherently Low Emission Vehicle
JPB	[Peninsula Corridor] Joint Powers Board
LAVTA	Livermore-Amador Valley Transit Authority ("Wheels")
LEV	Low Emission Vehicle

LNG	Liquefied Natural Gas
MPG	Miles per gallon
MTC	Metropolitan Transportation Commission
NAAQS	National Ambient Air Quality Standards (federal standards)
NO <sub>x</sub>	Nitrogen oxides, or oxides of nitrogen
NPOC	Non-Precursor Organic Compounds
NSR	New Source Review
O <sub>3</sub>	Ozone
PM <sub>2.5</sub>	Particulate matter less than 2.5 microns
PM <sub>10</sub>	Particulate matter (dust) less than 10 microns
PM <sub>&gt;10</sub>	Particulate matter (dust) over 10 microns
POC	Precursor Organic Compounds
pphm	Parts per hundred million
ppm	Parts per million
PUC	Public Utilities Commission
RFG	Reformulated gasoline
ROG	Reactive organic gases (photochemically reactive organic compounds)
RIDES	RIDES for Bay Area Commuters
RTP	Regional Transportation Plan
RVP	Reid vapor pressure (measure of gasoline volatility)
SCAQMD	South Coast [Los Angeles area] Air Quality Management District
SIP	State Implementation Plan (prepared for <i>national</i> air quality standards)
SO <sub>2</sub>	Sulfur Dioxide
TAC	Toxic Air Contaminant
TCM	Transportation Control Measure
TFCA	Transportation Fund for Clean Air [BAAQMD]
TIP	Transportation Improvement Program
TMA	Transportation Management Association
TOS	Traffic Operations System
tpd	tons per day
Ug/m <sup>3</sup>	micrograms per cubic meter
ULEV	Ultra low emission vehicle
ULSD	Ultra low sulfur diesel
USC	United States Code
UV	Ultraviolet
VMT	Vehicle miles traveled (usually per <i>day</i> , in a defined area)
VTA	Santa Clara Valley Transportation Authority
ZEV	Zero Emission Vehicle

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chair Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Authorize the Executive Officer/APCO to Accept Fiscal Year 2006/2007 Carl Moyer Program Funds

---

RECOMMENDED ACTION

Authorize the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board (CARB) relating to the Air District's receipt of Carl Moyer Program funds for fiscal year (FY) 2006/2007.

BACKGROUND

CARB allocates Carl Moyer Program funds to local air districts to provide financial incentives to the public and private sectors for the implementation of eligible projects that reduce emissions from on-road and off-road engines. The Air District has been participating in the Carl Moyer Program since its inception in 1999. The Carl Moyer Program provides a very cost-effective means to reduce emissions of nitrogen oxides, reactive organic gases, particulate matter, and air toxics from heavy-duty diesel engines.

DISCUSSION

CARB has allocated a total of \$12,572,003 in Carl Moyer Program funds to the Air District for the FY 2006-2007 (Year 9) funding cycle; this includes \$11,943,403 for project grants, and \$628,600 to help offset the Air District's administrative and outreach costs. Authorization by the Board of Directors to accept these funds is needed to satisfy CARB procedures and to allow the Air District to execute a contract for these funds by CARB's deadline of April 30, 2007. Staff will propose a list of recommended grant awards for the Year 9 funding cycle to the Mobile Source Committee and the Board of Directors.

BUDGET CONSIDERATION/FINANCIAL IMPACT

CARB requires the Air District to provide Year 9 matching funds in the amount of \$1,839,829. The Air District will provide the required matching funds by allocating local motor vehicle surcharge revenues to eligible emission reduction projects that qualify for Carl Moyer Program matching purposes.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: J. Steinberger  
Reviewed by: J. Ortellado

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent,  
Executive Officer/APCO

Date: March 9, 2007

Re: Referral of Proposed Draft Operating Budget for Fiscal Year Ending  
2008 to the Budget & and Finance Committee

RECOMMENED ACTION

Refer proposed draft operating budget for Fiscal Year Ending 2008 to the Budget and Finance Committee for review and consideration.

BACKGROUND

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for Fiscal Year 2005/2006 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The proposed operating budget for Fiscal Year Ending 2008 is \$67.9 million dollars.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Consider Approval of Hiring Recommendation at Step E for a Principal Environmental  
Planner Position

---

RECOMMENDATION

Consider approval of hiring recommendation at Step E for a Principal Environmental Planner. This position will be responsible for the Climate Protection Grant Program.

BACKGROUND

Section 7.04 of the District's Memorandum of Understanding requires that the Board of Directors approve placement of a new employee at salary step D or E. Accordingly, staff is recommending that the Board of Directors approve the recommendation to hire a Principal Environmental Planner, Abby Young at Step E of Salary Range 142.

DISCUSSION

This request is made in order to support the Air District's efforts to recruit a high quality candidate to fill the Principal Environmental Planner position. Ms. Young, if appointed, will come to the Air District with over 11 years of direct experience in climate protection programs, specifically working with the international non-profit organization ICLEI and experience in development and implementation of programs for local governments to reduce greenhouse gas emissions, fundraising, incentive grants, sustainable transportation planning, and renewable energy. Ms. Young has over 20 years of extensive public speaking experience, making over 70 presentations on the topic of climate protection.

Starting Ms Young at salary Step E is warranted not only based on her experience, but also based on the fact that Ms. Young has had a competing offer of employment and has requested the higher step placement.

For this reason, staff is strongly recommending that Ms. Abby Young be hired at Step E of salary range 142, which is \$8,417.91 per month.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There are no financial impacts resulting from this recommendation beyond those already contemplated in the current budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Report of the Executive Committee Meeting of February 9, 2007

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Executive Committee met on Friday, February 9, 2007, to receive and file reports of the Hearing Board and Advisory Council. Fred Glueck, Chairperson of the Advisory Council, reviewed issues the Council will pursue in 2007:

- The Community Air Risk Evaluation (CARE) Program;
- Particulate Matter and Wood Smoke;
- The Spare the Air Tonight campaign,
- Indoor Air Quality; and
- Climate Protection.

Staff presented the attached reports and updates on the following items:

- Status report and updates on the Spare the Air Program;
- Overview of Direction Received from the Board of Directors at its January 17, 2007 Retreat; and
- Staff provided a Budget Overview for Fiscal Year Ending 2008.

Chairperson, Ross will give an oral report of the Executive Committee meeting at the March 21, 2007, Board meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

**TO:** Chairperson Mark Ross and Members of the Executive Committee

**FROM:** Chairperson Thomas M. Dailey, M.D., and Members of the Hearing Board

**DATE:** January 4, 2007

**RE:** Hearing Board Quarterly Report – OCTOBER 2006 – DECEMBER 2006

**RECOMMENDED ACTION:**

This report is provided for information only.

**DISCUSSION:**

<u>COUNTY/CITY</u>	<u>PARTY/PROCEEDING</u>	<u>REGULATION(S)</u>	<u>STATUS</u>	<u>PERIOD OF VARIANCE</u>	<u>ESTIMATED EXCESS EMISSIONS</u>
Alameda/Berkeley	<b>PACIFIC STEEL CASTING CO. (Appeal – Docket No. 3520) –</b> <i>Appeal of Pacific Steel Casting co., from the APCO’s issuance of Designated Permit Conditions in an Authority to Construct at Facility No. 1603 – Administrative Record &amp; Evidentiary Hearing</i>	Appeal	Withdrawn. Both parties settled over permit conditions in the Authority to Construct	===	===
Alameda/Oakland	<b>EAGLE BAG CORPORATION (Variance – Docket No. 3522) –</b> <i>Variance from regulation limiting emissions of volatile organic compounds from graphic arts operations and graphic arts lines (APCO opposed.)</i>	8-20-302	Withdrawn. Settlement agreement with District	===	VOCs
Contra Costa/Richmond	<b>CHEVRON U.S.A., INC. (Appeal – Docket No. 3524) –</b> <i>Appeal from the issuance of a Further Revised Major Facility Review Permit for Facility No. A0010 (Richmond Refinery)</i>	Title V	Docket No. 3488 consolidated with current Docket No. 3524. Both parties to submit further written status reports	===	===
Sonoma/Santa Rosa	<b>JDSU – FLEX PRODUCTS GROUP (Variance – Docket No. 3523) –</b> <i>Variance from regulation requiring compliance with permit conditions – Full Variance Hearing</i>	2-1-307	Withdrawn. Settlement agreement with District	===	NPOC – Acetone

**NOTE: During the fourth quarter of 2006, the Hearing Board dealt with one Docket on one hearing day. No excess emission fees were collected during this quarter.**

Respectfully submitted,

Thomas M. Dailey, M.D.  
Chair, Hearing Board

Prepared by: Neel Advani  
Reviewed by: Mary Romaidis

FORWARDED: \_\_\_\_\_  
NA:na (1/4/07HBEXQURT)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Ross and Members of the Board Executive Committee  
From: Fred Glueck, Chairperson, Advisory Council  
Date: January 31, 2007  
Re: Report of the Advisory Council: November 8, 2006 – January 10, 2007

RECOMMENDED ACTIONS:

Receive and file the attached minutes.

DISCUSSION:

The Advisory Council held a Retreat and Meeting of the Public Health, Air Quality Planning and Technical Committees on January 10, 2007, at which committee work priorities and membership for the Standing Committees for 2007 were established. I will confirm the slate of Advisory Council Officer Appointments for 2007 at the February 9, 2007 Board Executive Committee meeting.

Presented below are summaries of the key issues discussed at meetings of the Advisory Council and its Standing Committees during the above reporting period.

1. Executive Committee Meeting of November 8, 2006. The Council received a presentation from the Committee Chairs on the status of their work objectives for 2006. Council Officers and Committee Chairpersons for calendar year 2007 were nominated and approved as follows: Advisory Council Chairperson – Fred Glueck; Vice Chairperson – Louise Bedsworth, PhD; and Secretary – Harold Brazil; Technical Committee Chairperson – Sam Altshuler, P.E.; Public Health Committee Chairperson – Jeffrey Bramlett; and Air Quality Planning Chairperson: Ken Blonski.
2. Public Health Committee Meeting of December 12, 2006. The Committee engaged in a discussion on indoor air quality (IAQ) and asthma and reviewed efforts to engage city and county health officers in collaborative efforts to address these issues. The Committee also discussed what the next steps should be in developing an effective interface between the health community and the District.
3. Air Quality Planning Committee Meeting of December 14, 2006. The Committee engaged in a discussion on the Air District's 2007 Spare the Air Tonight Program, which emphasizes an educational campaign to reduce particulate matter (PM) through reduced wood burning and driving. The Committee also reviewed Chairperson Hayes' presentation on Climate Protection and Carbon Footprint Analysis for the Advisory Council, discussing

methods to go beyond carbon neutral, offset payment mechanisms, potential fund recipients and future steps needed to complete the 2006 footprint.

4. Advisory Council Retreat and Meeting of the Public Health, Air Quality Planning and Technical Committees of January 10, 2007

The Council received progress reports from each of the Committee Chairs and engaged in a roundtable discussion with District staff on key issues facing the District for 2007. Priorities for the Standing Committees were established in workshop session and members were assigned to committees of interest.

Respectfully submitted,

Fred Glueck  
Advisory Council Chairperson

Prepared by: Camille Tavlian

FORWARDED BY: \_\_\_\_\_

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

DRAFT MINUTES

Advisory Council Executive Committee  
9:00 a.m., Wednesday, November 8, 2006

1. **Call to Order – Roll Call.** Chairperson Kurucz called the meeting to order at 9:07 a.m.  
Present: Kraig Kurucz, Chairperson, Fred Glueck, Vice-Chairperson, Louise Bedsworth, Ph.D., Secretary, Robert Bornstein, Ph.D., Jeffrey Bramlett, Stan Hayes, Brian Zamora.

Other Advisory Council Members Present: Sam Altshuler.

2. **Public Comment Period.** There were no public comments.
3. **Approval of Minutes of July 12, 2006.** Mr. Zamora moved approval of the minutes; seconded by Mr. Glueck; carried unanimously.
4. **Review of Work Plan Accomplishments with Committee Chairs.** Chairperson Kurucz asked each Chairperson to report on the work of the Standing Committees.

- Air Quality Planning Chairperson Hayes stated that the Committee has discussed the possible implications of AB 32's passage for the Air District's Climate Protection program and future Committee and full Advisory Council actions on the issue. The Committee has also discussed implementation of the Advisory Council's climate change motion adopted at its September, 2006 meeting. The motion established as a Council goal the reduction of its carbon footprint beyond carbon neutral to achieve AB 32's greenhouse gas reduction targets. Mr. Hayes distributed the Carbon Footprint Analysis for the Year 2006: BAAQMD Advisory Council, and explained the calculations and tabulations. Mr. Hayes stated that he would like to incorporate accurate data for each of the Advisory Council members so that a more complete version of the footprint could be developed. He pointed out that the vast majority of carbon emissions derive from the air travel to attend the Air & Waste Management Annual Exhibit & Meeting. Once the completed footprint for the full Council is calculated, the Planning Committee will address the issue of how the Council could identify areas where it could make reductions in emissions.

Mr. Hayes stated that the Planning Committee will continue to work on this issue during next year, and at its next meeting in December, 2006, the Committee will attempt to establish an implementation plan.

- Technical Committee Chairperson Bornstein stated that the last meeting did not occur because the speaker from South Coast AQMD was unavailable to make the presentation. Efforts are still being made to contact the person for the next meeting. The next meeting will be scheduled on a date to accommodate the speaker's schedule.
- Public Health Committee Chairperson Bramlett reported on two items:  
(1) the recommendations on the Wood Burning Control Strategies for the full Advisory

Council's consideration and adoption. Mr. Bramlett stated that he would be proposing three changes to the recommendations at the Council's Regular meeting later that morning. Committee members were asked if they had any suggestions or comments that might assist in the adoption of the recommendations made by the Public Health Committee; and (2) Indoor Air Quality and Asthma: Dr. Kmucha had drafted a letter to the city and county health officers to respond to questions on this issue. The purpose of the letter was to engage the public health department and the medical community in this process to avoid duplication of efforts. No responses to the letter were received to date. This matter will be continued by the Public Health Committee for its discussions next year.

5. **Proposal of Slate of Officers for 2007.** Chairperson Hanna nominated the following individuals for the slate of Officers and Committee Chairs for calendar year 2007: Chairperson – Fred Glueck; Vice-Chairperson – Louise Bedsworth, Ph.D.; and Secretary – Harold Brazil; Technical Committee Chairperson: Sam Altshuler, P.E.; Public Health Committee: Jeffrey Bramlett; and Air Quality Planning Committee: Ken Blonski. Mr. Hayes moved that the Committee accept these nominations for Council Officers and Committee Chairpersons; seconded by Mr. Zamora; carried unanimously.
6. **Committee Member Comments/Other Business.** Chairperson Kurucz thanked the Standing Committee Chairs for their excellent work and accomplishment of their work plans during the year.

Chairperson Kurucz thanked Mr. Hayes for his role and 12 years of service in the Advisory Council. Mr. Hayes thanked the Committee for its support and expressed his gratitude for having been part of the Advisory Council for 12 years; he applauded the Council for its dedication to the District and to the goal for achieving clean air.

In response to Mr. Glueck's inquiries regarding the Retreat scheduled to be held in January, 2007, staff provided details of the format and logistics of the Retreat.

Chairperson Kurucz suggested to incoming Chairperson Glueck that he send an email to the Advisory Council members in December, 2006, requesting their choices for Committee assignments during 2007. Mr. Glueck mentioned that he would also make an announcement between the breakout sessions during the January 2007 Retreat of the Council on this matter.

7. **Time and Place of Next Meeting.** 9:00 a.m., Wednesday, January 10, 2007, 939 Ellis Street, San Francisco, CA 94109.
8. **Adjournment.** 9:30 a.m.

Neel Advani  
Deputy Clerk of the Boards

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

DRAFT MINUTES

Advisory Council Public Health Committee Meeting  
10:00 a.m., Tuesday, December 12, 2006

1. **Call to Order – Roll Call.** Chairperson Bramlett called the meeting to order at 10:05 a.m.  
Present: Jeffrey Bramlett, Chairperson, Cassandra Adams (10:30 a.m.), Janice Kim, M.D., (10:08 a.m.), Steven Kmucha, M.D., Karen Licavoli-Farnkopf, MPH, Linda Weiner.  
Absent: Brian Zamora.
2. **Public Comment Period.** There were no public comments.
3. **Approval of Minutes of October 10, 2006.** Dr. Kmucha moved approval of the minutes; seconded by Mr. Bramlett; carried unanimously.
4. **Discussion on Indoor Air Quality and Asthma:** *The Committee discussed indoor air quality and asthma.*

Councilmember Janice Kim, M.D., arrived at 10:08 a.m.

Chairperson Bramlett opened the discussion on the issue of indoor air quality (IAQ) and asthma and stated that to date no responses had been received by the District staff on the letter that was sent in October, 2006 to the city and county health officers. Mr. Bramlett reviewed two of the proposed items listed in the letter and asked Committee members for their ideas on how the Committee might proceed further on these items: (1) consider collaboration in the creation of seminars/summits with relevant and interested groups to gather information and develop action plans to disseminate this information to address IAQ; and (2) to work to improve the interface between public health and the general medical community about these issues.

Ms. Licavoli-Farnkopf opined that the letter was good background material but that it needed to be more specific with regards to the information that the Committee is trying to obtain from the city and county health officers. It would be helpful to define what the Committee means when discussing collaboration with the various groups. The Committee needs to be more specific about what it is trying to achieve for the District and what the next steps might be in dealing with the complex issue of IAQ and asthma.

There was a lengthy discussion about the development of an agenda for a summit and sharing it with the public health officers to obtain their feedback and input. There could be a key contact person from each county that might review the agenda and provide input with regards to what they might like to include in the seminar/summit. Mr. Bramlett stated that he would prefer not to develop an agenda without engaging the city and county health officers in the process. Mr.

Bramlett reminded the Committee that the strategy from last year was to try not to recreate new steps but to build on the existing information and programs that were already in place.

Dr. Kmucha commented that there is good evidence that shows that IAQ deteriorates in the winter months when there are a lot of respiratory cases. Also, there is a huge disconnect between the public health department and the medical community. Physicians do not have a lot of time to spend on the public health side. The public health community is working on community issues and a lot of that information does not seem to filter down to the physicians treating individual patients. There are a lot of issues related to IAQ and it would be helpful to get an idea of what questions the District is faced with when they receive phone calls from the public. This might provide the Committee with a better idea on what to focus on while developing recommendations for the District.

Peter Hess, Deputy APCO, stated that the Air District staff is looking at what type of coordination is needed, or how staff should be moving towards interfacing with the health community in the areas of IAQ and asthma. The District receives many inquiries from the public wanting to know the impact and relationship between IAQ, outdoor air quality and their effect on asthma. This topic was given to the Public Health Committee to work on so that the Committee could provide the District with recommendations on how the District might interface with the public, county health officers and non-governmental organizations (NGOs), and what the District's role might be on this issue.

Mr. Hess stated that he and Jack Broadbent, Executive Officer/APCO, had met with the Bay Area County Health Officers Association offering them the opportunity to establish firmer ties between the county health officers and the Air District.

Councilmember Cassandra Adams arrived at 10:30 a.m.

Ms. Weiner suggested that a brief questionnaire be mailed out to the health departments to find out what type of inquiries they receive and what type of tools might help them as a resource. In response to Ms. Weiner's inquiry as to what parameters or authority the Air district has over IAQ and asthma, Mr. Hess stated that in the regulatory area, the District has the authority to regulate certain air contaminants, e.g. paints used in homes, plastic sealers, coatings, consumer products and other types of air contaminants that would go into the ambient atmosphere.

A lengthy discussion ensued regarding possible short-term and long-term recommendations that the Committee might make for IAQ and asthma. Members commented that there are several asthma coalitions in every county and that the District should tap into existing coalitions and work in partnership with them in being a resource to the public. It was also suggested that the Community Outreach Manager of the District should interface with the public health officers. Dr. Kim suggested the California IAQ Working Group's website as a resource, and possibly having the District's web pages linked to other resources.

Mr. Hess suggested the following next steps for the Committee to consider: (1) the District staff would make a presentation to the Committee at its next meeting. The presentation would include items such as what the District is currently engaged in for IAQ and asthma; how many phone calls and other inquiries the District receives; how much time is spent on each inquiry, etc; (2) identify the various health coalitions involved on the issue of asthma in order to tap into those resources; and (3) Mr. Hess would contact Brian Zamora, since he represents the public

Draft Minutes of December 12, 2006 Public Health Committee Meeting

health agencies, to discuss the recent letter that was mailed to the city and county health officers and to find out possible reasons as to why none of the health officers responded to it.

- 5. Committee Member Comments/Other Business.** Dr. Kim referred to a new article titled “Wood Smoke Health Effects: A Review” that has recently been published by Informa Healthcare. She could not distribute copies to the Committee members, at this time, because of potential copyright issues; however, she mentioned that she would look into the issue of obtaining copies for the Committee.

Mr. Bramlett requested the members to think of possible issues that they might like the Committee to work on during 2007, and to bring their list of ideas to the Council’s Retreat on January 10, 2007. Mr. Bramlett also mentioned that he would like to change the day when the Public Health Committee meets each month from a Tuesday to some other day during the week, based on his availability.

- 6. Time and Place of Next Meeting.** The date for the next meeting will be discussed and finalized at the Council’s Retreat on January 10, 2007.
- 7. Adjournment.** The meeting adjourned at 11:24 a.m.

Neel Advani  
Deputy Clerk of the Boards

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

DRAFT MINUTES

Air Quality Planning Committee  
9:30 a.m., Thursday, December 14, 2006

1. **Call to Order:** Chairperson Stan Hayes called the meeting to order at 9:36 a.m.

**Roll Call:** Stan R. Hayes, Chairperson, Ken Blonski, Harold Brazil (10:08 a.m.), Emily Drennen, Fred Glueck, John Holtzclaw, Ph.D., Kraig Kurucz (9:40 a.m.), Ed Proctor.

**Absent:** None.

2. **Public Comment Period.** There were no public comments.
3. **Approval of Minutes of October 11, 2006:** Mr. Proctor moved approval of the minutes; seconded by Dr. Holtzclaw; carried by acclamation with Mr. Glueck abstaining.

Chairperson Hayes requested that Agenda Item 5 be presented first.

5. **Discussion of the Air District's 2007 Spare the Air Tonight Program:** *The Committee discussed the Air District's 2007 Spare the Air Tonight Program.*

Karen Schkolnick, Agency Spokesperson, presented the report.

Councilmember Kraig Kurucz arrived at 9:40 a.m.

Ms. Schkolnick stated that Spare the Air Tonight is a public education campaign which began on November 20, 2006 and will run through February 16, 2007. The focus of the program is to reduce particulate matter. The emphasis of the education campaign is to reduce wood burning and driving. This year the Environmental Protection Agency (EPA) reduced the standard for the acceptable limits for particulate matter 2.5 (PM2.5) from 65 micrograms per cubic meter down to 35, which is more protective of public health. In response to the reduction of the standard, the Air District is issuing advisories any time it is forecast that the particulate matter levels will reach the limit.

Particulate matter is very small, approximately 1/20<sup>th</sup> the size of the diameter of human hair and it can remain airborne for a long time. Rain helps to bring it out of the air otherwise it can be suspended for long periods of time. Because the particles are so small, they have the ability to travel deep into the lungs, where they can cause many problems. Some of these health effects include coughing, eye irritation, asthma, and other health related problems.

Ms. Schkolnick reviewed some of the major sources of particulate matter, which range from industry to consumer sources. PM is related to incomplete combustion and all of the sources contribute to particulate matter in the community. A history of Spare the Air Tonight advisories were presented to the Committee. In 1991, the first year of the program, there were 11. There was one Spare the Air Tonight alert in 2002; this year, to-date, there have been six. Ms. Schkolnick pointed out that these are advisories and not exceedances of the standard. In response to a question from Mr. Blonski, Ms. Schkolnick stated that the public education campaign has changed over time regarding how the advisories are issued. In 2006, the advisories are very health-based and related to when the threshold will not be met.

Peter Hess, Deputy APCO, stated that the standard in 1991 was PM10. This year is the first year for the PM2.5 revised standard, which means that a different type of particulate matter is being measured which is very fine and four times smaller than PM10. Through the evolution of the air pollution control programs, the standard has become more stringent on certain air contaminants. The Air District's regulations have helped in the reduction of the pollutants. Fine particulate matter is a combination of many different types of sources. Some are directly emitted, such as fire places and wood stoves; and others are secondary pollutants, such as the products of ammonia nitrate and diesel particulates. It is a combination of a change in the standards and an energetic air pollution control program that reduced the number of Spare the Air Tonight's that have been called throughout the year.

Continuing, Mr. Hess stated that this will change in the future because the current standard has changed. The number of particulate matter should be looked at, not the amount of particulate matter in the atmosphere. There will be more debate and EPA will start revising the ambient air quality standard for fine particulate matter.

In response to a question from Mr. Hayes regarding the criteria used when the District calls an advisory, Ms. Schkolnick stated that the meteorologist looks at a number of factors and comes up with a formula to determine what the conditions will be in the next 24 hour period. Jean Roggenkamp, Deputy APCO, added that the District calls an advisory at about 35 micrograms per cubic meter. Ms. Roggenkamp noted that the EPA has not yet changed the Air Quality Index (AQI) scale standard. The Air District believes it is important to call the advisories when there are health affects.

Ms. Schkolnick reviewed the District's outreach strategy and stated that one of the main components of the wintertime campaign are the public surveys. Surveys will be done on the same days as advisories and on other random days where no advisory has been called. This will track any behavior changes. Other outreach strategies include the following:

- Television and radio advertising
- Employer campaign and community events
- A new element of the campaign will be contacting asthma clinics and sending informational packets to them
- The woodstove change-out program in Santa Clare County will be wrapped up within the next couple of months
- The wintertime Spare the Air web site; sparetheair.org
- Collateral materials that include the following:
  - Bookmark about particulate matter
  - Tip card about wood burning

- Handbook about wood burning and particulate matter
- Video commercial featuring the Executive Officer/APCO

Ms. Schkolnick stated that the summer survey focused on driving and that the winter-time survey will focus on wood burning. There was a brief discussion on the Santa Clara County wood burning stove change-out program. The Committee was informed that this program was part of mitigation of emissions from a Cal Pine power plant, and that the program was dedicated to Santa Clara County. There have been 1,900 change-outs and the program is close to meeting its goal.

Continuing, Ms. Schkolnick reviewed the media plan for the Spare the Air Tonight campaign. The District received a lot of media attention after a press release on the campaign was sent out. December 1<sup>st</sup> was the start of the advisories and there were five more issued very soon thereafter. The Air District will issue advisories whenever there is a forecast of unhealthy air quality. Advisories are also issued before the major wintertime holidays.

In response to a question from Ms. Drennen, Ms. Schkolnick stated that PM is more of a factor when the air is colder and there are concentrations of particulates in the colder areas. People tend to burn more when it is cold. The advisories are in effect until the next morning. In response to Dr. Holtzclaw's question on stressing the indoor safety of individuals, Ms. Schkolnick stated that the advisories talk about the impacts to people's health and the surrounding communities. Where you smell the smoke, you are breathing the smoke.

The Wood Burning Handbook has been revised and the new handbook stresses the new message of not burning wood. The message to people is that when you burn wood, you are putting your family at risk. In response to a question from Mr. Blonski, Ms. Schkolnick stated that the Air District receives questions regarding the advisories and wood burning, but has not received any organized opposition to the model wood smoke ordinance. Ms. Schkolnick noted that views on cigarette smoking have changed over the years and that there may also be a shift on wood smoke and burning, especially as people get more information and are educated about the hazards.

Mr. Hayes opined that the District is trying to get people to limit wood burning at night through the Spare the Air Tonight Program. There is a 24-hour standard, but PM also comes from other sources. The Spare the Air focuses on what not to do that day. The Spare the Air Tonight program should also focus on what can be done during the day to reduce emissions.

Mr. Glueck suggested one outreach methodology would be to have an educational packet for youth telling them about the dangers of smoke from wood burning which they could then take home to their parents.

Councilmember Harold Brazil arrived at 10:08 a.m.

Mr. Schkolnick discussed the status of the model wood smoke ordinance and stated that eight out of nine counties have adopted a model ordinance. Out of 101 Bay Area cities, 41 have adopted the model ordinance. About half of the cities in the Bay Area allow building fireplaces. There is some shift from wood burning to natural gas. There have also been retrofits for cleaner burning fireplaces.

The messages of the Spare the Air Tonight advisory include the following:

- Clean air choice (you have the option if you want a fire in your home)
- Protect public health
- Don't burn wood
- Make a long-term investment in your family's health, switch to natural gas or EPA certified insert
- Drive less

Mr. Hayes expressed concern that with an increase in advisories due to the reduction of the standard, that the reaction of the public might be that things are worse now than before. There is the danger that the message is so frequent that people will ignore it. People might have the wrong impression about the state of the air and they might not pay attention to the advisories.

Jean Roggenkamp, Deputy APCO, stated that the Air District did consider this and, based on past forecasts, determined there might be as many as 20 Spare the Air Tonight advisories called. The Air District will emphasize the health effects of wood burning. Mr. Hess added that the District is looking at the degree of unhealthy air and that public health will be the focus of the message. Mr. Hess stated that the District has embarked on a program where inspectors go out and conduct air sampling. The samples show there are some high readings in a short period of time.

Mr. Kurucz noted that it is hard to get people to understand that what they do affects many people. There needs to be an awareness of this fact. Mr. Blonski stated that it is important to craft a public health message and target schools and educate children. Dr. Holtzclaw added that the message should include "if you can smell the smoke, it could be a health issue."

Ms. Drennen inquired about providing incentives during Spare the Air Tonight advisories that would impact people's behavior. Ms. Schkolnick stated that the District does not have an incentive program yet. This year the difference is the change in the standard and the message is health-based. Ms. Drennen stated she would be interested in the percent of PM related to wood burning and the percent related to driving.

Chairperson Hayes stated that the new standards would require more planning. The State Implementation Plans (SIPs) are due in 2013, but that over the next few years there will be plans for reducing PM levels in the Bay Area in a more comprehensive way than just reduction of wood burning. In conclusion, Chairperson Hayes stated that this is a cutting edge program and is part of the mission of the Air District.

**4. Review and Discussion of the Advisory Council's Carbon Footprint Analysis.** *The Committee reviewed and discussed the Advisory Council's carbon footprint analysis.*

Chairperson Hayes distributed copies of his presentation "Climate Protection: Some Possible Next Steps for the Advisory Council." Chairperson Hayes noted that the Carbon Footprint Analysis had been corrected to reflect that Mr. Altshuler attended the Air & Waste Management Conference (AWMA) and not Mr. Dawid. Chairperson Hayes stated that it

would be good to finalize the footprint for 2006 and to keep in mind that the Committee has suggested going beyond carbon neutral.

Chairperson Hayes reviewed the key dates regarding AB 32:

- June 30, 2007 – List of early action measures
- January 1, 2008 – 1990 greenhouse gas (GHG) emission level report and verification regulations
- January 1, 2009 – Scoping plan for achieving 2020 limit
- January 1, 2010 – Early action regulations
- January 1, 2011 – Emission reduction measures
- January 1, 2012 – Reduction measures operative

Air District issues on AB 32:

- Methodologies for quantifying GHG emissions and reductions
- Definition of “maximum technologically feasible and cost effective” GHG reduction measures
- Interactions of GHG reduction measures with efforts to improve air quality
- Design of market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria pollutants

Chairperson Hayes reviewed some possible next steps in 2007

- Complete the Advisory Council’s carbon footprint analysis
- Implement the Advisory Council’s carbon neutral resolution
- Provide technical support to the Board of Directors and staff
- Report to the Board of Directors

Chairperson Hayes recommended that the Advisory Council’s carbon footprint be presented to the Board of Directors. There should be discussion on how this could be implemented beyond carbon neutral and how to achieve some carbon reductions. It is also important to determine what the percentage of reduction would be when going beyond carbon neutral (20% or more). There would also need to be discussion on an offset payment mechanism and determining how the money would be spent.

Dr. Holtzclaw reiterated that looking at an offset payment mechanism is important. Mr. Blonski added that this is a world-wide issue. Mr. Kurucz proposed that work be done on some baseline assumptions and it is up to the Council to make a proposal on how it is to be divided up. Mr. Kuzucz noted that the Board of Directors is interested in the carbon footprint, but that the Council should make the decision on where the Council’s funds are earmarked.

Mr. Hess stated that based on Chairperson Hayes’ chart, the AWMA 2007 conference would be about the same as 2006. Mr. Hess commented that the 2007 AWMA conference will focus on offsets for attendees. The brochure for the conference will have information in it on ways to offset emissions.

There was a discussion on the allocation for each Committee member, which money from each Committee member was then collected. Mr. Kurucz indicated that the rest of the Council could pay at the January Retreat. The Committee discussed types of organizations

that could receive the money and it was noted that there are organizations that collect the money and then disperse it. The consensus was to keep the money in the Bay Area.

Henry Hilken, Director of Planning, Rules and Research, noted that the recent Climate Protection Summit hosted by the Air District was planned as a carbon neutral event. Staff has been studying all of the different ways the money could be used. The District has not as yet identified a recipient of the funds. Mr. Hilken suggested that staff could report back to the Committee on what was found and which organization the Air District determined would receive the funds.

Mr. Glueck reiterated that this involves a life style change and that education, especially of youth, is important. Education should be taken into consideration when determining where the funds should go.

Chairperson Hayes summarized by stating that the Council should move forward and focus on implementation of a plan, how will the plan be tracked, pick a target, and implement the plan to accomplish the goal. Mr. Kurucz noted that the funds could be collected annually after the AWMA conference.

There was discussion regarding completion of the 2006 footprint and discussing it further at the January Retreat. Mr. Kuzucz stated it would be helpful to bring in some expertise and possibly get a short list of choices. Mr. Hilken stated that the staff has been working on this and that the District is looking at about 15 to 20 organizations, but would like to narrow the list down. Mr. Hilken suggested that staff could provide a report on its findings at a future meeting of the Committee.

6. **Committee Member Comments/Other Business.** Mr. Kurucz thanked Chairperson Hayes for his leadership to the Committee and for the expertise he brought to the Committee and its discussions. Dr. Holtzclaw expressed his thanks to Chairperson Hayes for his friendship to all of the Council.

Chairperson Hayes thanked the Committee and noted that he enjoyed working with a group of dedicated people. Chairperson Hayes thanked staff and the Board for the work they have done.

7. **Time and Place of Next Meeting.** At the Call of the Chair.
8. **Adjournment.** 11:26 a.m.

Mary Romaidis  
Clerk of the Boards

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109

DRAFT MINUTES

Advisory Council Retreat  
And  
Meeting of the Public Health Committee  
Meeting of the Air Quality Planning Committee  
Meeting of the Technical Committee

9:30 a.m., Wednesday, January 10, 2007

**CALL TO ORDER**

Opening Comments: Chairperson Glueck called the meeting to order at 9:36 a.m. Chair Glueck introduced Camille Tavlian, a new member of the Executive Office staff and recording secretary for the meeting.

Roll Call: Present: Fred Glueck, Chair, Sam Altshuler, P.E., Louise Bedsworth, Ph.D., Ken Blonski, Robert Bornstein, Ph.D., Jeffrey Bramlett, Harold Brazil, Irvin Dawid, Emily Drennen, William Hanna, John Holtzclaw, Ph.D., Janice Kim, M.D., Ph.D., Steven Kmucha, M.D., Kraig Kurucz, Karen Licavoli-Farnkopf, MPA, Ed Proctor, Linda Weiner, Brian Zamora.

Absent: Cassandra Adams

Chairperson Glueck welcomed Board of Directors' Chairperson Mark Ross to the Advisory Council meeting and stated that the Advisory Council looks forward to working together with the Board on joint issues in 2007. Chairperson Ross thanked the Advisory Council for their time and work on the important issues before them.

**COMMENDATION/PROCLAMATION**

Chairperson Glueck recognized and praised the work and expertise of Kraig Kurucz, outgoing Chairperson of the Advisory Council. Mr. Kurucz stated it was a pleasure to serve the Advisory Council as Chairperson and acknowledged the fine work of the committees and new members.

**PUBLIC COMMENT PERIOD:**

None

**CONSENT CALENDAR:**

- 1. Approval of Minutes of November 8, 2006.** Dr. Borenstein moved approval of the minutes; seconded by Dr. Holtzclaw; carried unanimously.

**COMMITTEE REPORTS**

As a preface to the Committee Reports, Chairperson Glueck recognized the new officers of the Advisory Council: Louis Bedsworth (Assistant Chair) and Harold Brazil (Secretary), as well as the committee chairs: Ken Blonski (Air Quality Planning Committee), Sam Altshuler (Technical Committee) and Jeff Bramlett (Public Health Committee). He thanked them for their assistance as well as willingness to serve.

- 2. Public Health Committee Meeting of December 12, 2006.** Mr. Bramlett stated that the Committee continues its work on indoor air quality and asthma. The Committee will be following up with the County and City Health Officers Association asking for their participation and/or their assistance in determining appropriate staff contacts.

Chairperson Glueck requested a moment to recognize District staff for their attendance, wished them a happy New Year, and apologized for not interjecting this comment earlier in the meeting.

- 3. Air Quality Planning Committee Meeting of December 14, 2006.** Mr. Blonski stated that the Committee had their last meeting under the direction of Stan Hayes, who was leading the Committee on the path of an understanding of their carbon footprint and the ramifications of a larger application for it. The Committee also received a presentation on “Spare the Air Tonight 2007” given by Karen Schkolnick, spokesperson for the Air District, who gave the Committee a better understanding of some of the changes in the program. Meeting minutes were not available as of the date of the meeting, but would be forthcoming. He stated the Committee looks forward to carrying out the work started by Stan Hayes, as well as exploring other topics.

- 4. Technical Committee Meeting of August 9 2006.** Mr. Altshuler stated that the Technical Committee did not have a meeting in December. The Committee has a request into Jean Ospital, Public Health Officer from South Coast Air Quality Management District, as an upcoming speaker.

Mr. Dawid asked if the Bay Area Air Quality Management District had a Public Health Officer position. Jack Broadbent, Executive Officer/Air Pollution Control Officer, stated the District does not have an individual with that particular title; however, the District does have a toxicologist and other staff trained in public health.

- 5. Round Table Discussion with Air District Management on Key Issues Facing the District and Proposed Assignments to the Council**

Chairperson Glueck recognized Mr. Broadbent, Executive Officer/APCO, who wished the Advisory Council a happy New Year on behalf of the staff. Mr. Broadbent also welcomed Mr. Glueck as the new chairperson of the Advisory Council and stated staff looks forward to supporting the Advisory Council and a productive year ahead. Mr. Broadbent also thanked

Mr. Kurucz (past chair) for his leadership of the Advisory Council and the progress made in the past year.

Mr. Broadbent highlighted the key issues and programs for recommended study by the Advisory Council as follows.

1. Community Air Risk Evaluation (CARE Program)

The District began the third phase of this multi-year program. Through this effort, the District is attempting to characterize and determine the health risk in communities in and around the Bay Area from breathing the air in areas that are impacted more than most by stationary and mobile sources. Findings to date presented to the Advisory Council and Board of Directors have identified some areas that experience elevated diesel particulate, as noted in and around the Port of Oakland from a concentration of traffic from ships, trucks and trains. These findings point to areas to which staff needs to expend additional resources, as well as conduct additional regulatory discussion on ways to address the elevated risk levels. Mr. Broadbent stated this area continues to be a very high public health priority for the District and the Advisory Council can assist in continuing the scientific research and identifying mitigation measures.

2. Particulate Matter (PM) Control and Wood Smoke Strategy

Mr. Broadbent stated that the Advisory Council has been extremely helpful in the past year in examining work in this area and advising the District of the direction to be taken in the area of wood smoke, a significant and controversial public health issue. He stated that the District has examined efforts in other areas, such as San Joaquin County and Puget Sound, but is challenged to come up with a strategy that fits the Bay Area.

Mr. Broadbent stated that since November 20, 2006, the District has had approximately 15-16 days in exceedance of the new federal national ambient air quality standard (35 micrograms/cubic meter standard). Wood smoke, particularly in a cold, dry season represents a significant fraction of the elevated PM levels experienced in the Bay Area during the winter time. He commented that the work to date by the Advisory Council has been phenomenal and should continue.

3. “Spare the Air Tonight”

This program represents a mitigation measure for the PM and wood smoke issue, in which residents are encouraged not to burn wood. Mr. Broadbent stated that, unlike the “Spare the Air” program during the summer months where an increase in ridership is visible on BART and other transit operators, it is difficult to assess effectiveness of this program because it involves asking residents not to burn. Complicating this issue is the affordability issue of burning wood versus running electric heaters on cold nights. He asked the Advisory Council for their assistance in identifying potential mitigation measures for this program to increase its effectiveness.

4. Indoor Air Quality

Mr. Broadbent stated the Advisory Council has done significant work in this area to date. He added District staff is particularly interested in linking efforts currently underway (CARE and other programs) to informing the general public of steps they can take to improve air quality in their homes and offices.

5. Climate Protection

Mr. Broadbent stated the District has taken a leadership role in climate protection and plans to continue this forward momentum. He requested the Advisory Council's assistance in determining future steps to implementing AB32. He also suggested it would be worth considering having staff from CARB or California EPA to brief the Advisory Council as efforts are being made to move forward in the implementation of this legislation.

As a result of the District's Climate Summit on November 10, 2006, Mr. Broadbent stated that District staff also requests ideas from the Advisory Council for recommendation to the Board of Directors in the area of climate protection. He commented that the Board has also established a separate standing committee in this area (previously an ad hoc committee), whose first meeting will be on January 18.

Mr. Broadbent stated District staff finds the Advisory Council most effective in exploring options, charting a course and advising the Board of Directors on where the District should be moving forward as an organization. He stated District staff is most effective in addressing the technical and policy details.

Ms. Weiner provided an update on the climate change issue. She stated that the environmental and public health groups were meeting in Sacramento during the week to develop early action measures for a January 22, 2007 meeting of California Air Resources Board (ARB). She stated that implementation of AB32 is progressing rapidly. She also stated that the Clean Cars campaign is working on the 1493 court case coming up in Federal District Court in Fresno on January 30, 2007. This decision will affect AB32.

Ms. Weiner also described an agreement to share research data between staff and the Environmental Health Collaborative. Mr. Broadbent stated he is working with Amy Cohen to establish a meeting date.

Mr. Altshuler commented on "Spare the Earth" mitigation measures in lieu of "Spare the Air."

Mr. Kurucz asked staff if there was a particular subcommittee recommended to handle the wood smoke strategy and the emission measures. Mr. Peter Hess, Deputy Air Pollution Control Officer, recommended a split assignment for the Technical Committee in examining the filter data and strategies for attainment and the Public Health Committee, which has devoted much of their work over the last year to strategy.

Dr. Bornstein asked on what basis the District called a "Spare the Air Tonight." Mr. Broadbent stated it is based on a model forecast on staff's prediction of when the standard will be exceeded. Mr. Kendall added further it is a combination of continuous PM readings through 9:00 am in the morning, considering the day's meteorology, and past experience in order to make a forecast.

Mr. Altshuler stated he would be interested in looking at the issues where competition exists between climate control and air quality, for example CO<sub>2</sub> and particulate matter. Mr. Broadbent stated that, as is CARB's perspective, the District places public health first

and in taking the lead in climate control does not want to compromise the gains made in air quality. Therefore, what is needed is to integrate climate control measures into the overall regulatory framework that exists, assuring that limits such as CO<sub>2</sub> are maintained, while addressing energy efficiency standards in order to make progress in the area of stationary sources.

Mr. Broadbent added that the Code of Conduct, which is provided annually, had been supplied to the Advisory Council members for their reference and review.

Ms. Drennen thanked staff for making the Code of Conduct gender neutral and added that under Article II, No. 1, there remained one additional reference to “his” which should be changed to gender neutral as well. This change will be added to the next Advisory Council agenda for discussion.

Chairperson of the Board of Directors, Mark Ross requested to address the Advisory Council. He thanked the Council for their dedication of time to improving air quality. He noted their efforts in the CARE program, the PM and wood smoke program, “Spare the Air” and “Spare the Air Tonight” programs. He praised their assistance to the Board in identifying risks and solutions to important public health issues, as well as getting the public into action. He offered his contact information and accessibility to all Advisory Council members.

Chairperson Glueck thanked Chairperson Ross for his comments to the Advisory Council.

Mr. Dawid asked Chairperson Ross what his views were on behalf of the Board of Directors about a mandatory “no-burn” day. Chairperson Ross acknowledged his support for it in some form, stating the wood smoke issue was a pernicious problem as serious as the health problems posed by refineries. However, he did acknowledge the conflict of addressing health concerns vs. the perception of “stepping into people’s living rooms” to address it. He asked the Advisory Council for their assistance in developing a strategy to take to the Board which the Board could bring to the Bay Area as a whole.

Chairperson Glueck solicited comments from the Advisory Council members regarding additional topics for study by the individual committees in addition to those proposed by Mr. Broadbent.

Ms. Drennen suggested a study of mobile sources and initiatives, with an emphasis on reducing auto usage, walking and possibly land use. She added it would also be helpful hearing from the Mobile Source Committee for guidance.

Mr. Dawid suggested Indirect Source Review and Remote Sensing Data (RSD). He added both are on the forefront for getting the gross polluters off the road and indirectly examining land use patterns.

Mr. Dawid also suggested re-examining free transit on “Spare the Air Days” in that it actually had in effect produced additional transit trips and did not represent the most effective use of the limited funds available for the program.

Mr. Dawid also asked to look further into diesel cars, which are expected to exceed the level of hybrids on the road.

Dr. Bornstein asked if there would be time to look at changes to the way the committees interact, particularly in their recommendations to the Board. Specifically, he wished to look at ways to improve documentation especially where it involved specific recommendations. Chairperson Glueck stated he would pursue this as a procedural item with staff, identify potential options and return to the Advisory Council for discussion.

Dr. Bornstein also suggested more cross membership among the committees.

Chairperson Glueck led a summary discussion among the members on the suggested committee assignments for the study topics presented, including joint committee assignments and joint speakers to address the committees on topics of interest.

1. CARE Program  
Technical Committee  
Public Health Committee
2. PM Control  
Technical Committee  
Air Quality Planning Committee
3. 'Spare the Air'  
Air Quality Planning Committee  
Public Health Committee
4. Indoor Air Quality  
Public Health Committee  
Technical Committee  
Air Quality Planning Committee

Mr. Broadbent clarified the Advisory Council recommendations to the Board in this area should focus on monitoring and not proposals for regulation.

5. Climate Protection  
Technical Committee  
Air Quality Planning Committee
6. Mobile Source Issues  
Air Quality Planning Committee  
Technical Committee
7. Indirect Source Review  
Planning
8. Remote Sensing Devices (RSD)  
Technical

9. Diesel Cars  
Technical

Dr. Bornstein asked Mr. Broadbent if staff had any interested at re-examining ozone with respect to the new standard and interbase and transport. Mr. Broadbent stated it remains an important topic and would be an appropriate topic for the Technical Committee, subject to the Committee's time and priorities.

Mr. Altshuler asked if the new NO<sub>2</sub> standard from the Air Resources Board (ARB) and efforts to achieve it should be an appropriate topic for the Advisory Council. Mr. Kendall clarified Mr. Altshuler was referring to the ARB one-hour standard, changed from .25 and .18 to a new annual standard of .03. Mr. Kendall stated that staff had examined monitoring data and the last time either one of the proposed levels was exceeded was 1985. Therefore, while staff supports ARB's efforts to modify the standard based upon the health effects, he did not see an issue for the Bay Area.

Mr. Hanna asked for clarification on participation of Advisory Council members who attend committees to which they are not assigned. District counsel, Brian Bunger, advised of an Attorney General's opinion which states that if a member is not on a committee, that member cannot address the committee in any manner, not even as a member of the public; however, members may attend.

Chairperson Glueck announced the committee preferences for each of the Advisory Council members.

Public Health Committee

Jeff Bramlett (Chair)  
Cassandra Adams  
Robert Bornstein  
Janice Kim  
Steven Kmucha  
Karen Licavoli-Farnkopf  
Linda Weiner  
Brian Zamora

Technical Committee

Sam Altshuler (Chair)  
Louise Bedsworth  
Robert Bornstein  
William Hanna  
John Holtzclaw  
Kraig Kurucz

Air Quality Planning

Ken Blonski (Chair)  
Harold Brazil  
Irvin Dawid  
Emily Drennen

William Hanna  
John Holtzclaw  
Kraig Kurucz  
Ed Proctor

In response to a question from Ms. Drennen regarding the new appointments and possible reappointments to the Advisory Council, Mr. Broadbent stated that that the Personnel Committee will meet on January 12, 2007, and their recommendations will be taken to the Board of Director's meeting on January 17, 2007.

6. Chairperson Glueck announced each of the committees would break into a separate working lunch discussion session to discuss their topics as well as dates for meetings for the upcoming year. The following District staff was assigned to work with the committees: Mr. Kendall (Technical Committee, Mr. Bateman (Public Health), and Mr. Hilken (Air Quality Planning Committee). The Advisory Council participated in a group photo. The Committee Chairs chose their respective locations and began their discussions.

Chairperson Glueck adjourned the meeting at 11:20 a.m.

7. Chairperson Glueck reconvened the meeting at 1:12 p.m. All Advisory Council members were present, with the exception of Mr. Brian Zamora and Mr. Kraig Kurucz. A quorum remained among the members.

Discussion ensued among the Committee Chairs with regard to the committee meeting schedules. It was determined that the Committees would meet as follows:

Technical	2 <sup>nd</sup> Monday of even months with the exception of 2/28 9:00 a.m. – 12:00 p.m.
Public Health	2 <sup>nd</sup> Wednesday of even months 1:30 p.m. – 3:00 p.m.
Air Quality Planning	2 <sup>nd</sup> Wednesday of even months 9:30 a.m. – 11:30 a.m.

No combined committee meeting dates were as yet determined.

The chairs of each of the committees presented their priorities for 2007:

Air Quality Planning Committee

Chairperson Blonski presented the following priorities:

1. Climate Protection
  - a) Regulatory (AB 32) – policies and procedures
  - b) Closure on Carbon Footprint
2. Wood burning/Spare the Air Tonight
3. Mobile Sources/Spare the Air Day
4. Indirect Sources
  - a) Land use patterns related to mobile sources, mitigation measures

- Possible speakers: Association of Bay Area Governments (ABAG)
- b) Future predictions for the Bay Area

Public Health Committee

Chairperson Bramlett presented the following priorities:

1. Asthma and Indoor Air Quality
  - a) Collaborative environment between District and Public Health Officers
  - b) Policy and practices
2. Spare the Air Tonight
  - a) Public education and outreach in conjunction with Air Quality Planning Committee
3. CARE Program
  - a) Status report of health effects by staff

Technical Committee

Chairperson Altshuler presented the following priorities:

1. CARE Program
  - a) PM issues
  - b) MATES program update (South Coast Air District)
  - c) Is the District on right track with respect to monitoring, cumulative risks, technical aspects?
  - d) Which PM to address and/or control?  
Resources: Jean Ospital, South Coast Air District  
Phil Martien  
Bart Ostro  
Tom Cahill  
Karen Magliano (ARB)  
CRPAQs
2. Climate Change
  - a) Conflicts and Complements Discussion
    - Diesel car
      - 1) Impacts within the Bay Area – temperature, ozone
      - 2) Staff update from Climate Control Summit of November 2006
      - 3) “Spare the Earth” concept
3. Remote Sensing  
(Low Priority, as time permits)

Chairperson Glueck reminded the committees to keep in mind for the year their role of assisting the Board of Directors in informing the public and encouraging public participation. Members and District staff engaged in a discussion of how the public may attend and participate more fully in Advisory Council and committee meetings.

**OTHER BUSINESS**

**8. Council Member Comments/Other Business**

Chairperson Glueck thanked the members and staff for their participation and stated he looked forward to a productive year ahead.

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

Chairperson Glueck announced a correction to the agenda. The Advisory Council will meet on March 14 at 10:00 a.m., not March 7. The Advisory Council would continue to meet the second Wednesday of the odd months.

10. **Adjournment.** The meeting was adjourned at 1:50 p.m.

Camille M. Tavlian  
Executive Secretary

:cmt

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Ross and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 1, 2007

Re: Spare the Air Program Update

RECOMMENDED ACTION:

For information only.

BACKGROUND

The *Spare the Air* program was created to notify the public when air pollution is expected to reach unhealthy concentrations and to encourage residents to take individual action to reduce harmful pollutants. A free transit element was introduced in 2004. Last year the Air District and the Metropolitan Transportation Commission partnered with 26 regional transit operators to offer free rides, all day long, on the first six *Spare the Air* weekdays. The 2006 smog season began June 1, and closed on October 13, 2006.

DISCUSSION

Staff has worked closely with the Metropolitan Transportation Commission and the Bay Area transit providers over the past six months and will provide the Committee with a status report on the survey results and analysis conducted to date on the data received from the 2006 Spare the Air/Free Fare campaign.

Staff will also make recommendations to the Committee with regard to the 2007 Spare the Air campaign to better refine the program.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Memorandum

To: Chairperson Ross and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 1, 2007

Re: Discussion and Overview of Board of Directors' Meeting/Retreat of  
January 17, 2007

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RECOMMENDED ACTION:

Receive and File.

BACKGROUND

The Board of Directors held its annual meeting/retreat on Wednesday, January 17, 2007. The Board of Directors received staff presentations on the state of the Air District, an overview and status report regarding efforts being undertaken to reduce community impacts from toxic air contaminants, wood smoke strategy implementation, and an overview of climate protection efforts.

DISCUSSION

As a follow up to the Board of Directors meeting/retreat, staff will review with the Committee direction received from the Board of Directors with regard to policy issues as discussed at the January 17, 2007, meeting/retreat.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

No budgetary impacts.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Memorandum

To: Chairperson Ross and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 1, 2007

Re: District Financial Overview

RECOMMENDED ACTION:

Receive and File.

DISCUSSION

The District is in excellent financial health and possesses adequate reserves. In anticipation of the FY 07-08 budgeting process, staff will present a summary of this status.

On the revenue side, Cost Recovery continues to be a critical element of the District's financial planning. Permit-related costs and support services exceed revenue from these sources. Prior year fee increases across all fee schedules were 7% and 8.5% in the last two years respectively. Consistent attention to this discrepancy prevents the need for larger one-time adjustments. County revenue will continue to reflect the increase in Bay Area property values.

On the expenditure side, the District expects PERS costs to remain flat. Significant capital expenditures have been approved by the Board of Directors, including execution of deferred building maintenance and the replacement of the IRIS/Databank Production System.

The District is providing support to the state-wide audit of the Carl Moyer program. A summary of these audit processes will be provided to the committee.

Finally, staff will provide an introduction to the District's obligations for future medical expenses

BUDGET CONSIDERATION/FINANCIAL IMPACT:

No Budget Impact.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 9, 2007

Re: Report of the Budget & Finance Committee Meeting of February 28, 2007

RECOMMENDED ACTION

The Committee recommends that the Board of Directors' approve the designation of a reserve for "other-than-pension post-employment benefits" (OPEB) in Fiscal Year 2007/2008, and transfer \$1.4 million from undesignated reserves to the newly designated reserve fund.

BACKGROUND

The Budget & Finance Committee met on Wednesday, February 28, 2007. Staff presented the following reports and recommendations:

- District Financial Audit Report for Fiscal Year 2005/2006.
- Second Quarter Financial Report for Fiscal Year 2006/2007.
- A Continuing Update on the State-Wide Carl Moyer Audits.
- Committee consideration of staff's recommendation to designate and fund a reserve for "other-than-pension post-employment benefits" Fiscal Year 2007/2008, and transfer of \$1.4 million from undesignated reserves to the newly designated reserve fund.

DISCUSSION

Gary Caporicci of Caporicci & Larson, CPA's provided an overview of the Financial Audit Report for fiscal year 2005/2006. The report on the basic financial statements is unqualified with no reportable conditions and no instances of non-compliance, and no financial statement findings noted.

Staff provided an update on the status of the audits being conducted by the Bureau of State Audits, the Air Resources Board, and the Department of Finance. The audits are to investigate and compare practices at four air districts: South Coast, San Joaquin, Sacramento, and the Bay Area Air District.

New accounting rules for government agencies will require that the District begin reporting financial liabilities from certain retirement benefits, OPEB. The new reporting requirements will apply to the District beginning with Fiscal Year 2008/2009. Staff will explore options for addressing the unfunded accrued liability and present the findings and a recommendation at a future Committee meeting.

Attached are the staff reports presented to the Committee.

Chairperson Chris Daly will give an oral report of the meeting.

**BUDGET CONSIDERATION/FINANCIAL IMPACT:**

Staff's recommendation to designate and fund a reserve for OPEB would result in a transfer from undesignated reserves to a newly designated reserve fund in the amount of \$1.4 million in FY 2007/2008.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Romaidis  
Reviewed by: Mary Ann Goodley

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Daly and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 26, 2007

Re: District Financial Audit Report for Fiscal Year 2005/2006

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION

The audit report confirms that the District's financial statements "...present fairly, in all material respects, the financial position of the governmental activities and each major fund of the District as of June 30, 2006, and the respective changes in financial position, thereof for the year then ended in conformity with generally accepted accounting principles in the United States." The report on the basic financial statements is unqualified with no reportable conditions and no instances of non-compliance, and no financial statement findings noted.

The Report on compliance and on internal control in accordance with government auditing standards states "We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses."

The Report on compliance in accordance with OMB Circular A-133 states "In our opinion, the District complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2006."

There were no findings or questioned costs. The audit report notes that the District responses to two prior year, single audit findings have been implemented. The report also notes that the District response to the prior year TFCA program finding is in progress.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeff McKay

**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Memorandum

To: Chairperson Daly and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 26, 2007

Re: Second Quarter Financial Report – Fiscal Year 2006-07

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION

GENERAL FUND BUDGET: STATEMENT OF REVENUE

Comparison of Budget to Actual Revenue

- County Revenue receipts were \$7,230,352 (39.8%) of budgeted revenue.
- Permit Fee receipts were \$9,720,233 (52.5%) of budgeted revenue.
- Asbestos Fees were \$767,532 (47.4%) of budgeted revenue.
- Title V Permit Fees were \$1,152,402 (49.7%) of budgeted revenue.
- Toxic Inventory Fees were \$273,892 (51.1%) of budgeted revenue.
- Penalties and Settlements receipts were \$2,034,395 (101.7%) of budgeted revenue.
- Interest Income was \$560,597.98 (93.4%) of budgeted revenue.
- Miscellaneous Revenue receipts were \$180,572 (47.2%) of budgeted revenue.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES

Comparison of Budget to Actual Expenditures

- Salaries and Benefits were \$ 19,339,866 (50.7%) of estimated expenditures.
- Operational Services and Supplies were \$ 4,285,705 (33.5%) of estimated expenditures.
- Capital Outlay was \$786,802 (27.2%) of estimated expenditures.

**TFCA FUND: STATEMENT OF INCOME AND EXPENDITURES**

- Total Revenue was \$3,882,344 (35.6%) of estimated revenue and expenditures.
- In keeping with TFCA Fund requirements, expenditures must equal revenue.
- Salary and Benefits were \$808,810 (36.1%) of estimated expenditures.
- Operational Services and Supplies were \$ 3,073,534 (33.1%) of estimated expenditures.

**FUND BALANCES**

<b>FUND BALANCES</b>	<b>6/30/2005 Audited</b>	<b>6/30/2006 Audited</b>	<b>6/30/2007 Projected</b>
<b>SPECIAL RESERVES</b>			
Reserve for Imprest Cash	\$1,200	\$1,200	\$500
Reserve for Building and Facilities	\$2,894,175	\$2,693,550	\$1,810,315
Reserve for PERS Funding	\$3,500,000	\$3,500,000	\$3,100,000
Reserve for Radio Replacement	\$3,500,000	\$3,500,000	\$75,000
Reserve for Climate Protection			\$3,000,000
Reserve for State Ozone Modelling Plan	\$350,000	\$0	\$0
Reserve For Production System	\$500,000	\$250,000	\$1,250,000
Reserve for Prior Year Adjustments	\$15,000	\$15,000	\$15,000
Reserve For Capital Equipment	\$378,000	\$130,425	\$130,425
Reserve For Encumbrances	\$1,760,075	\$2,466,145	\$2,466,145
Reserve For Contingencies	\$400,000	\$400,000	\$400,000
Reserve For Workers Comp Sel Fund	\$1,000,000	\$1,000,000	\$1,000,000
Reserve for Multi-year Appropriations	\$1,522,796	\$1,552,141	\$1,552,141
<b>TOTAL SPECIAL RESERVES:</b>	<b>\$15,821,246</b>	<b>\$15,508,461</b>	<b>\$14,799,526</b>
<b>UNRESERVED:</b>			
Undesignated	\$8,991,610	\$12,934,168	\$11,934,168
<b>TOTAL FUND BALANCES</b>	<b>\$24,812,856</b>	<b>\$28,442,629</b>	<b>\$26,733,694</b>

**BUDGET CONSIDERATION/FINANCIAL IMPACT:**

No impact on Fiscal Year 2006/2007 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeffrey McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Daly and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 26, 2007

Re: Continuing Update on State-Wide Carl Moyer Audits

RECOMMENDED ACTION:

Informational report. Receive and file.

BACKGROUND:

In March of 2006, Senator Dean Florez requested that Bureau of State Audits (BSA) conduct a performance audit focused on how air pollution control and air quality management districts manage programs designed to distribute Carl Moyer Program funding. In particular, the audits are to investigate and compare practices at four air districts: South Coast, San Joaquin, Sacramento and the Bay Area Air Quality Management Districts. The request followed adoption of AB923 which ensured that the Moyer program will be funded at a level of at least \$140 million per year.

The request cited three key areas to be addressed:

- The efficiency and equity of the application process
- The effectiveness of project selection and funding distribution in achieving maximum emissions reduction and public health protection
- The availability and quality of public information and public outreach about the program to ensure participation.

DISCUSSION:

After the request from Senator Florez, the California Air Resources Board (ARB) initiated a separate audit of the Carl Moyer program. In addition, ARB requested that the Department of Finance (DOF) conduct a third, concurrent audit. Each of these three entities (BSA, ARB, DOF) will issue separate audit reports. The current status of these audits is shown in the table below.

<b>Auditors</b>	<b>Status/Dates</b>
Bureau of State Audits	Onsite work complete.
Air Resources Board	Initial Onsite Meeting Complete. Will be onsite for one week beginning March 19
Department of Finance	Initial Onsite Meeting Complete. Will be onsite for one week beginning March 19

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeff McKay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Daly and Members  
of the Budget & Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 28, 2007

Re: Recommendation to Designate and Fund a Reserve for “Other-Than-Pension Post-Employment Benefits” (OPEB)

RECOMMENDATION:

Consider recommending that the Board of Directors approve staff’s recommendation to designate and fund a reserve for “other-than-pension post-employment benefits” (OPEB) for Fiscal Year ’07-’08, and to transfer \$1.4 million from undesignated reserves to the newly designated reserve fund.

BACKGROUND

New accounting rules for government agencies will require that the District begin reporting financial liabilities from certain retirement benefits known as “other-than-pension post-employment benefits,” or OPEB for short. The new reporting requirements will apply to the District beginning with Fiscal Year ’08-’09. Staff has worked with an actuarial consulting firm, Bartel Associates, to identify the District’s financial liability for retiree benefits including medical, dental, vision and life insurance. Staff has also studied the option of beginning to pre-fund those benefits, which heretofore have not been pre-funded, and has concluded that pre-funding the benefits would likely result in significant savings over the long term.

DISCUSSION

The Governmental Accounting Standards Board (GASB) rules requiring disclosure of unfunded financial liabilities from OPEB do not require that an agency begin pre-funding benefits. However, government employer experience with pre-funding pension benefits through the CalPERS system, for example, demonstrates that pre-funding can substantially reduce the cost of providing retiree benefits, primarily due to investment returns on money set aside for pre-funding. For example, approximately 80% of the pension payments paid by CalPERS are from investment returns on contributions made by employers.

The District has not pre-funded any of its OPEB to date and has been funding the benefits on a “pay-as-you-go” basis. An actuarial study conducted last year indicates that the District has an unfunded accrued liability for OPEB of approximately \$48 million. The annual cost of pre-funding the District’s OPEB on a prospective basis (i.e., without addressing the liability accrued to date) is approximately \$2.3 million per year. Both of these figures assume a discount rate (rate of return on investment) of 4.5%, which is considerably less than, for example, the actuarially assumed rate of return used by

CalPERS for employer contributions to pension benefits; CalPERS assumes they will get a 7.75% rate of return on employer contributions to pre-fund pension benefits.

CalPERS has recently decided to act as a pre-funding administrator for OPEB. CalPERS member agencies have the option of making contributions to CalPERS to pre-fund their OPEB, similar to how member agencies make contributions to CalPERS to pre-fund pension benefits. While there are alternatives to using CalPERS as a funding administrator, using CalPERS would amount to a turn-key solution for pre-funding.

After reviewing the District's financial situation along with the actuarial information on accrued liability and normal (prospective) costs, staff recommends that the District designate a reserve and set aside the "normal cost" for FY '07-'08, and to defer addressing the unfunded accrued liability until at least FY '08-'09. In the interim staff will explore options for addressing the unfunded accrued liability, which may include issuing pension obligation bonds. This approach maintains flexibility for future decision making, while taking a conservative, preliminary first step toward pre-funding OPEB.

If the District were to pre-fund the "normal cost" of OPEB it would require annual contributions of approximately \$1.4 million, assuming a rate of return on investments of 6.75%. Staff believes that 6.75% is a conservative assumption if CalPERS is the funding administrator, based on CalPERS actuarially assumed rate of return on investment for pre-funding of pension benefits, which is currently 7.75%. Also, CalPERS has historically met or exceeded its assumed rate of return on investments. Accordingly, staff is recommending \$1.4 million as an appropriate amount to set aside in a designated reserve for FY 07-08.

Staff has prepared a slide presentation and will have the actuarial consultant present to go into more detail on the actuarial study, funding options, and to answer questions.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The recommended action would result in a transfer from undesignated reserves to a newly designated reserve fund in the amount of \$1.4 million for FY 07-08.

Respectfully Submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Michael Rich  
Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Mark Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 9, 2007

Re: Report of the Personnel Committee Meeting of March 5, 2007

RECOMMENDED ACTION:

The Committee recommends Board of Directors' approval of the reappointment of Thomas M. Dailey, M.D. as the regular member for the Medical Profession Member category and the reappointment of Christian Colline, P.E. as the regular member for the Registered Professional Engineer category to the Air District Hearing Board. Each appointment is for a 3-year term of office. The Medical Profession Member term ends April 14, 2010 and the Registered Professional Engineer term ends March 6, 2010.

The Committee recommends Board of Directors' approval of the appointment of Janet Weiss, M.D. as the alternate member for the Medical Profession Member category. The appointment is for a 3-year term of office effective April 14, 2007 and ending April 14, 2010.

The Committee recommends Board of Directors' approval of the appointment of Melissa Tumbleson, P.E. as the alternate member for the Registered Professional Engineer Member category. The appointment is for a 3-year term of office effective immediately and ending March 6, 2010.

BACKGROUND:

Pursuant to Section 40800 of the California Health and Safety Code the District is required to maintain a Hearing Board consisting of five members. Further, Section 40801 requires that one of the Hearing Board members be from the medical profession whose specialized skills, training, or interests are in the fields of environmental medicine, community medicine, or occupational/toxicologic medicine and that one of the Hearing Board members be a professional engineer registered as such pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code). Section 40800 allows the District to appoint one alternate for each member of the Hearing Board with the same qualifications specified in Section 40801. The alternate serves for the same term as the member.

DISCUSSION:

The Personnel Committee met March 5, 2007 to conduct interviews of candidates to fill the regular and alternate Medical Profession and Registered Professional Engineer positions. Based on the Committee's review of each candidate's background and responses to interview questions, the Personnel Committee is recommending to the full Board of Directors that Thomas M. Dailey, M.D. be selected for the regular Medical Profession position and Janet Weiss, M.D. for the alternate Medical Profession position. The Personnel Committee is also recommending to the full Board of Directors that Christian Colline, P.E. be selected for the regular Registered Professional Engineer position and that Melissa Tumbleson, P.E. be selected for the alternate Registered Professional Engineer position. The recommended selections are from a pool of nine candidates for the regular and alternate positions.

Chairperson Brown will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Romaidis  
Reviewed by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Report of the Stationary Source Committee Meeting of March 8, 2007

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee met on Thursday, March 8, 2007. Staff reported on the following items:

- A) Proposed New Regulation 6; Rule 2: Commercial Cooking Equipment;
- B) Proposed Amendments to Regulation 9, Rule 8: Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines; and
- C) An Overview of the Comprehensive Strategy for Wood Smoke Emissions Reductions.

Attached are the staff reports presented to the Committee for your review.

Chairperson Scott Haggerty will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and  
Members of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 23, 2007

Re: Proposed Regulation 6, Rule 2: Commercial Cooking Equipment

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

The District committed to study control of emissions from commercial charbroiling in the 2005 Ozone Strategy and further committed to develop such a control measure in the SB 656 Particulate Matter (PM) Implementation Schedule. Staff has investigated potential controls for cooking emissions and has developed draft regulatory language. The District held four public workshops on draft rule language for proposed Regulation 6, Rule 2: Commercial Cooking Equipment on November 14 and 15, 2006. Local restaurant owners as well as major ventilation hood manufacturers and restaurant industry representatives have provided both verbal and written comments on the proposed rule.

Based on the comments received, the District has revised the regulation with respect to under-fired charbroilers. The District posted a Public Workshop Notice and revised rule language on February 14, 2007 and will conduct a public workshop on March 6, 2007.

DISCUSSION:

Staff will provide the Committee with the following information:

- Overview of revised proposed Regulation 6, Rule 2;
- Summary of comments received during the public workshops; and
- Next steps in the rule development process.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Virginia Lau  
Reviewed by: Daniel Belik

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Haggerty and  
Members of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 23, 2007

Re: Proposed Amendments to Regulation 9, Rule 8: Nitrogen Oxides and  
Carbon Monoxide from Stationary Internal Combustion Engines

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

Regulation 9, Rule 8: Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines (Rule 9-8) sets standards for emissions of nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) from stationary internal combustion (IC) engines. The 2005 Ozone Strategy includes Further Study Measure 15, which is a commitment to evaluate whether additional controls to further reduce emissions from stationary IC engines are feasible. In addition, the District's SB 656 Particulate Matter (PM) Implementation Schedule includes revisions to Rule 9-8 as a control measure. Stationary IC engines are similar to engines used for mobile sources such as heavy duty trucks, except they are used at stationary sources such as water treatment facilities, sanitation districts, fire and police departments, educational institutions, refineries, chemical manufacturers, commercial and residential buildings, and in agricultural operations. IC engines are used as both primary and backup engines to generate electricity and power pumps and compressors.

Staff discussed the regulatory background and uses of IC engines at the Stationary Source Committee Meeting on November 28, 2006. Staff has developed proposed amendments to Rule 9-8 and will present the proposal for discussion and comment at a public workshop on March 1, 2007. Staff has also met with engine operators, business associations, and engine manufacturers to solicit input on the proposal.

DISCUSSION:

Staff will provide the Committee with the following information:

- Description of the affected facilities and equipment;
- Comparison of compression-ignited (diesel) and spark-ignited (natural gas) engines;
- Proposed regulatory amendments;
- Summary of the March 1, Public Workshop and comments received; and
- Next steps in the rule development process.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Victor Douglas  
Reviewed by: Daniel Belik

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 28, 2007

Re: Comprehensive Strategy for Wood Smoke Emission Reduction

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

District regulations have historically excluded fires for residential heating from any air pollution control. However, ambient air monitors indicate that residential wood smoke contributes to an overall wood smoke atmospheric burden comprising up to 30% to 40% of peak PM<sub>2.5</sub> levels during the winter months. Cold, stable winter nighttime inversions allow pollutants to accumulate in the lower levels of the atmosphere. The District's Spare the Air Tonight season started on November 20 and ended on February 16 with 27 occurrences that exceeded the new 35 µg/m<sup>3</sup> 24-hr National standard.

The District will likely be non-attainment for the National standard. The District is therefore proposing a comprehensive wood smoke strategy involving three approaches to reduce residential wood smoke, including: increase public outreach, incentives to replace old, higher emitting wood stoves, and regulatory control measures.

DISCUSSION

Staff will provide the Committee with the following information:

- Applicable regulations and strategies adopted by other California air districts and the Puget Sound Clean Air Agency in Seattle, Washington;
- Ambient PM<sub>2.5</sub> levels in the Bay Area and emissions from wood burning;
- Outreach, incentives and regulatory control measures options; and
- Projected rule development process and timeline.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Janet Glasgow  
Reviewed by: Kelly Wee

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chair Mark Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Report of the Legislative Committee Meeting of March 12, 2007

RECOMMENDED ACTIONS

The Committee recommends that the Board of Directors approve positions on 13 bills as indicated on the table below.

DISCUSSION

The Legislative Committee met on Monday, March 12, 2007 and considered positions on newly introduced bills. Descriptions of the bills and the Committee's recommendations are shown in the table below.

Bill	Brief Description	Committee Recommendations
AB 218 (Saldana)	Eliminates current loophole allowing vehicle registration without smog certificate without penalty	Support
AB 233 (Jones)	Children's Breathing Rights Act, makes changes to air penalties and requires air districts to report penalty data to ARB	Watch
AB 463 (Huffman)	California Clean Ferry Act of 2007	Support
AB 493 (Ruskin)	Establishes fees and rebates respectively at the time of sale of high and low-emitting new motor vehicles	Support
AB 568 (Karnette)	Requires establishment of Port Community Advisory Committees	Watch
AB 575 (Arambula)	Prioritizes Proposition 1B air quality bond funding to South Coast and San Joaquin	Oppose
AB 616 (Jones)	Requires annual (instead of biennial) smog checks for cars at least 15 years old currently in the program	Support
AB 846 (Blakeslee)	Clean Marine Fuels Tax Incentive Act	Support
AB 934 (Duvall)	Would prohibit air districts from adopting airborne toxic control measures for non-stationary sources	Oppose

Bill	Brief Description	Committee Recommendations
AB 1077 (Lieber)	California Plug-in Hybrid Electric Vehicle Leadership Act of 2007	Support
AB 1209 (Karnette)	Establishes criteria favoring southern California ports for distribution of Prop 1B air quality funds	Oppose
SB 587 (Runner)	Establishes exemptions from air district permit requirements for certain printing, coating, adhesive application, and laminating operations, subject to specified criteria	Oppose
SB 974 (Lowenthal)	Establishes a container fee of \$30 per twenty-foot equivalent unit at LA, Long Beach, and Oakland ports	Support in Concept

Staff also provided an update on Proposition 1B Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

Committee Chair Brad Wagenknecht will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 28, 2007

Re: Consideration of New Bills and Corresponding Agency Positions

RECOMMENDED ACTION:

Discuss bills of air quality significance and recommend Board positions on some of them.

DISCUSSION

The bill introduction deadline of February 23<sup>rd</sup> has passed, and legislators have introduced roughly 3,000 bills. While many are still not fleshed out, and some brand new ideas will materialize later in the session in the ‘gut and amend’ process, we now have a much better idea of the 2007 legislative landscape.

Air quality is yet again a popular topic, and an initial list of bills relevant to the District is attached. Staff will present recommended verbal positions on some of the bills on this list at the Committee’s March 12<sup>th</sup> meeting. Also attached are copies of the text of a smaller set of air quality bills for the Committee’s consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

# BAAQMD BILL DISCUSSION LIST

February 28, 2007

BILL NO.	AUTHOR	SUBJECT	STATUS
AB 6	Houston	Would require (instead of allow) ARB to adopt market-based programs to implement AB 32	Asm. Nat.Resources
AB 94	Levine	Would increase current goals for renewable electricity production to 33% of total power by 2020	Asm. Utilities and Commerce
AB 99	Feuer	Expresses legislative intent that 50% of new cars sold in California by 2012 use clean alternative fuels	
AB 109	Nunez	Requires ARB to annually report to the Legislature on the implementation of AB 32 of 2006	Asm. Nat.Resources
AB 114	Blakeslee	Requires CEC by 2010 to develop a program to encourage, for industrial sources, containment, scrubbing, and capture technologies for carbon dioxide	Asm. Nat.Resources
AB 118	Nunez	Declares legislative intent for ongoing funding for alternative fuel research, development, and deployment	
AB 217	Beall	Would change current annual vehicle license fee to biennial, with total amounts paid not changing	Asm. Rev.& Tax
AB 218	Saldana	Eliminates current loophole allowing vehicle registration without smog certificate without penalty	Asm. Trans.
AB 233	Jones	Children's Breathing Rights Act; makes changes to air penalties and requires air districts to report penalty data to ARB	Asm. Nat.Resources
AB 236	Lieu	Requires maximum use of alternate fuel in flexible fueled state vehicles	
AB 242	Blakeslee	States legislative intent that early reducers of carbon emissions be rewarded with credits, in effect promoting a market-based implementation of AB 32	
AB 255	DeLeon	Establishes Clean Air and Energy Independence Fund, funded with a \$4 annual increase in fees paid by vehicles less than 7 years old currently exempted from smog check; administered by ARB	Asm. Trans.
AB 294	Adams	States legislative intent to identify sources and reduces levels of manganese particulate matter in the air	
AB 307	Hayashi	Exempts fuel cell transit buses bought by public agencies from sales tax	Asm. Rev.& Tax
AB 391	Lieu	Increases size of SCAQMD Board from 12 to 13; new member from a west side city other than LA	Asm. Loc. Gov.
AB 437	Jones	Authorizes county health officers to assist cities and counties on public health issues relating to land use and transportation planning	

AB 444	Hancock	Authorizes Alameda and Contra Costa congestion management agencies to impose an annual \$10 vehicle registration fee surcharge for congestion mitigation	Asm. Trans.
AB 463	Huffman	California Clean Ferry Act of 2007	
AB 493	Ruskin	Establishes fees and rebates respectively at the time of sale of high and low-emitting new motor vehicles	
AB 505	Plescia	Income tax credits for hybrid vehicles	
AB 532	Wolk	Requires solar electric installation by 2009 on all state buildings where feasible	
AB 534	Smyth	Increases Bicycle Transportation Account funding	
AB 568	Karnette	Requires establishment of Port Community Advisory Committees	
AB 575	Arambula	Prioritizes Proposition 1B air quality bond funding to South Coast and San Joaquin	
AB 616	Jones	Requires annual (instead of biennial) smog checks for cars at least 15 years old currently in the program	
AB 630	Price	Spot bill on SCAQMD Board	
AB 631	Horton	Requires new fueling stations by 2010 to be able to provide ethanol (E-85)	
AB 657	Jeffries	Spot bill on greenhouse gas emissions	
AB 700	Lieu	Declares legislative intent to address increase in air pollution from Santa Monica airport	
AB 705	Huffman	Requires state regulations for geologic carbon sequestration	
AB 712	DeLeon	Declares legislative intent to improve the efficiency of the Moyer program and recommend improvements	
AB 746	Krekorian	Requires CEC to develop programs to increase the use of natural gas as a transportation fuel	
AB 747	Levine	Requires ARB to develop regulations to cut carbon in transportation fuels, using market approaches	
AB 785	Karnette	Intent bill to reduce urban heat island effects	
AB 829	Duvall	Affects after-market motorcycle parts certified by the ARB and their use	
AB 842	Jones	States intent to award Prop 1B funds to jurisdictions that have a plan to reduce vehicle miles traveled	
AB 846	Blakeslee	Clean Marine Fuels Tax Incentive Act	
AB 934	Duvall	Would prohibit air districts from adopting airborne toxic control measures for non-stationary sources	
AB 995	Nava	Spot bill on Prop 1B bond funding of trade corridor and air quality improvements	
AB 1077	Lieber	California Plug-in Hybrid Electric Vehicle Leadership Act of 2007	
AB 1083	Huffman	Tax credits for sale of biodiesel fuel	
AB 1094	Arambula	Tax credits for biodiesel vendors	

AB 1119	Fuller	Requires ARB to provide guidance to local AQMDs on EJ requirements of Moyer program	
AB 1138	Brownley	Requires ARB to resolve questions regarding local AQMD boundaries	
AB 1209	Karnette	Establishes criteria favoring southern California ports for distribution of Prop 1B air quality funds	
AB 1225	DeSaulnier	Requires guidelines on environmental factors to guide state fleet purchases, and local government fleets of more than 100 vehicles	
AB 1350	Nunez	Spot bill on distribution criteria for Prop 1B bond funding	
AB 1455	Arambula	Would establish California Air Quality Zones, and allow loans for entities within these areas	
AB 1488	Mendoza	Requires by 2009 a pilot program to integrate light-duty diesel vehicles into smog check	
AB 1613	Blakeslee	Waste Heat and Carbon Emissions Reduction Act	
AB 1651	Alarcon	Tax credits for 'green' businesses acquiring 'green' machinery	
SB 9	Lowenthal	Legislative intent to identify criteria for expenditure of trade corridor funds from Prop 1B	
SB 19	Lowenthal	Legislative intent to identify criteria for expenditure of air quality funds from Prop 1B	
SB 23	Cogdill	Establishes a SJVUAQMD program to replace gross polluters with donated cleaner vehicles	Sen. Trans. & Housing
SB 70	Florez	Establishes standards for biodiesel and biodiesel blends	Sen. Business & Professions
SB 71	Florez	Requires ARB to administer a program to ensure that diesel vehicles owned by the State, cities, counties, and mass transit districts use B20 biodiesel	Sen. Trans. & Housing
SB 72	Florez	Requires ARB to see that diesel schoolbuses (public and private contractors) use B20 biodiesel	Sen. Education
SB 73	Florez	Establishes tax credits for producers of biodiesel	Sen. Rev.& Tax
SB 74	Florez	Exempts biodiesel from sales tax	Sen. Rev.& Tax
SB 75	Florez	Requires state diesel vehicles to be warranted to use B20 biodiesel	Sen. Trans. & Housing
SB 76	Florez	California Biofuels Investment Act	
SB 140	Kehoe	Requires California diesel to increase its renewable content first to at least 2%, and then to 5%	Sen. Trans. & Housing
SB 210	Kehoe	Requires ARB to develop a program to reduce carbon content of California transportation fuels by 10% by 2020, and implement a low-carbon fuel standard	Sen. Trans. & Housing
SB 240	Florez	Changes SJVUAQMD Board makeup, adding 2 Governor appointees and city council representatives	
SB 247	Ashburn	Greenhouse gas spot bill	

SB 412	Simitian	Spot bill on siting of LNG terminals	
SB 494	Kehoe	Requires ARB to adopt a program so that by 2020 half of new vehicles sold use clean alternative fuels	
SB 509	Simitian	Requires ARB to adopt regulations to limit formaldehyde emissions from composite wood to EU standards	
SB 531	Oropeza	Declares legislative intent to reform regulation of air toxics	
SB 532	Oropeza	Spot bill on port air pollution	
SB 572	Cogdill	Declares legislative intent to consider carbon emissions from wildfire, and forest carbon sequestration	
SB 587	Runner	Establishes exemptions from air district permit requirements for certain printing, coating, adhesive application, and laminating operations, subject to specified criteria	
SB 613	Simitian	Extends sunset of local San Mateo \$4 vehicle registration fee surcharge from 2009 to 2019	
SB 715	Lowenthal	Spot bill on smog check technical cleanup issues	
SB 719	Machado	Increases SJVUAQMD Board to 15, with 2 Governor's appointees and 5 city council members	
SB 842	Scott	Adds air protective requirements to gasification (conversion of solid waste to fuel)	
SB 849	Margett	Spot bill on prescribed burning	
SB 857	Correa	Authorizes study of tax credits for air pollution reduction equipment in SCAQMD and SJVUAQMD	
SB 871	Kehoe	Reestablishes through 2012 the expedited review process for new powerplants	
SB 876	Calderon	Requires ARB to consider economic impacts of diesel fleet rules on small businesses	
SB 886	Negrete McLeod	Spot bill on regional approach to air pollution	
SB 974	Lowenthal	Establishes a container fee of \$30 per twenty-foot equivalent unit at LA, Long Beach, and Oakland ports	

**ASSEMBLY BILL**

**No. 218**

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**Introduced by Assembly Member Saldana  
(Coauthor: Assembly Member Huffman)**

January 29, 2007

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An act to amend Section 9552 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as introduced, Saldana. Vehicles: fees.

Existing law provides that the fees for renewal of registration, or for renewal of special license plates, are delinquent when the application is made after midnight of the expiration date of the registration or special plates, or 60 days after the date the registered owner receives a specified notice, whichever is later.

When a smog certificate is required, this bill would provide that an application for renewal is not made until the smog certificate is received by the Department of Motor Vehicles.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 9552 of the Vehicle Code is amended to  
2 read:  
3 9552. (a) Whenever ~~any~~ a vehicle is operated upon ~~any~~ a  
4 highway of this state without the fees first having been paid as  
5 required by this code, and those fees have not been paid within 20

1 days of its first operation, those fees are delinquent, except as  
2 provided in subdivision (b).

3 (b) (1) Fees are delinquent whenever *an* application for renewal  
4 of registration, or ~~any~~ *an* application for renewal of special license  
5 plates, is made after midnight of the expiration date of the  
6 registration or special plates, or 60 days after the date the registered  
7 owner is notified by the department pursuant to Section 1661,  
8 whichever is later.

9 (2) *For purposes of paragraph (1), if a certificate of compliance*  
10 *issued in accordance with Section 44015 of the Health and Safety*  
11 *Code is required for renewal, an application for renewal is not*  
12 *made until that certificate is received by the department.*

13 (c) Whenever ~~any~~ a person has received as transferee a properly  
14 endorsed certificate of ownership and the transfer fee has not been  
15 paid as required by this code within 10 days, the fee is delinquent.

16 (d) Whenever ~~any~~ a person becomes an automobile dismantler,  
17 dealer, manufacturer, manufacturer branch, distributor, distributor  
18 branch, or transporter without first having paid the license and  
19 special plate fees as required by this code, the fees are delinquent.

**ASSEMBLY BILL**

**No. 233**

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**Introduced by Assembly Member Jones**

January 30, 2007

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An act to amend Sections 39674, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.4 of, and to add Sections 39604.3, 42400.3.7, 42400.9, 42402.4.5, and 42402.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 233, as introduced, Jones. Air pollution: Children's Breathing Rights Act: penalties.

(1) Existing law vests local and regional authorities, defined as the governing body of any city, county, or air pollution control district or air quality management district, with the primary responsibility for control of air pollution from all sources other than vehicular sources. Existing law establishes maximum criminal and civil penalties for any person, as defined, for violations of air pollution laws from nonvehicular sources.

This bill would enact the Children's Breathing Rights Act, which would increase the maximum penalties for specified violations of air pollution laws. The bill would enact criminal and civil penalties for additional specified violations of air pollution laws that result in substantial risk of actual injury, and for making certain false statements, representations, or certifications. The bill would also require the State Air Resources Board to post on its Internet Web site certain information on air quality violations, which the bill would require the districts to report to the state board, and would require the districts to jointly develop with the state board a format for presenting this information.

Because this bill would impose new duties on local air districts, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Children’s Breathing Rights Act.

3 SEC. 2. (a) The Legislature finds and declares all of the  
4 following:

5 (1) Breathing clean and healthy air is a right of all Californians,  
6 especially our children, whose health suffers disproportionately  
7 when our air is polluted.

8 (2) Reduced lung growth and function, new asthma cases,  
9 respiratory complications for asthmatics, and increased school  
10 absences from respiratory illnesses are just some of the  
11 consequences our children face if we fail to protect that right.

12 (3) The most recent available state and federal data reveal that  
13 more than 245 million pounds of industrial air pollution were  
14 emitted near California schools in 1995. Statewide, more than 2.8  
15 million children were enrolled in schools located near reported air  
16 emissions of carcinogens, reproductive toxins, heavy metals,  
17 nitrogen oxides, sulfur dioxide, or particulate matter.

18 (4) If we improve the statutes governing violations of our air  
19 quality laws and ensure that adequate penalties are available to  
20 deter even the most serious air pollution violations, our children’s  
21 right to clean and healthy air can be better protected, as can the  
22 right to environmental justice provided in Section 65040.12 of the  
23 Government Code, that is, the fair treatment of people of all races,  
24 cultures, and income with respect to the enforcement of  
25 environmental laws, regulations, and policies. If we improve the

1 enforcement of our air quality laws, we will avoid future economic  
2 and social costs of air pollution.

3 (b) It is the intent of the Legislature in the enactment of this act  
4 to improve compliance with air quality laws, to increase penalties  
5 for serious violators of air pollution laws and to use enhanced  
6 penalties to improve air pollution enforcement activities, and to  
7 create a statewide database that would provide transparency  
8 regarding violations, including serious violations.

9 SEC. 3. Section 39604.3 is added to the Health and Safety  
10 Code, to read:

11 39604.3. (a) (1) Notwithstanding Section 39604, the state  
12 board shall post on its Internet Web site, by January 1, 2009, and  
13 by January 1 of each year thereafter, the same information on air  
14 quality violations that the districts provide to the United States  
15 Environmental Protection Agency. The state board shall also  
16 provide a link on its Internet Web site to the Internet Web sites of  
17 the districts. To protect confidentiality, the state board may require  
18 a password for certain areas of its Internet Web site.

19 (2) Each district shall submit the information described in  
20 paragraph (1) to the state board, and the state board and the districts  
21 shall jointly develop a format for presenting this information. The  
22 format shall ensure that the data is presented in an open and  
23 transparent manner that is, to the greatest extent possible, readily  
24 accessible to, and understandable by, the public and compatible  
25 with enforcement data provided by other state environmental  
26 agencies.

27 (b) (1) Commencing January 1, 2009, every judgment entered  
28 in an action brought by a district and every final settlement  
29 agreement entered into by a district to enforce any provision of  
30 law that is administered by the district shall be posted on the  
31 district's Internet Web site, if the judgment or settlement agreement  
32 is in the public record.

33 (2) Paragraph (1) shall apply only to districts with a population  
34 greater than 1,000,000. A district with a population of less than  
35 1,000,000 that maintains an Internet Web site shall either comply  
36 with paragraph (1) or post a statement on its Internet Web site  
37 informing the public how to request information in the public  
38 record regarding judgments and settlement agreements.

1 (3) For the purposes of this subdivision, a judgment or settlement  
2 agreement is final when the time for judicial review has expired,  
3 or when all means of judicial review have been exhausted.

4 (4) A judgment or settlement agreement posted pursuant to this  
5 subdivision shall be posted for not less than one year.

6 SEC. 4. Section 39674 of the Health and Safety Code is  
7 amended to read:

8 39674. (a) Except as otherwise provided in subdivision (b),  
9 any person who violates any rule or regulation, emission limitation,  
10 or permit condition adopted pursuant to Section 39659 or Article  
11 4 (commencing with Section 39665) or which is implemented and  
12 enforced as authorized by subdivision (b) of Section 39658 is  
13 strictly liable for a civil penalty not to exceed ~~one thousand dollars~~  
14 ~~(\$1,000)~~ *ten thousand dollars (\$10,000)* for each day ~~in~~ *during*  
15 *any portion of* which the violation occurs.

16 (b) (1) Any person who violates any rule or regulation, emission  
17 limitation, permit condition, order fee requirement, filing  
18 requirement, duty to allow or carry out inspection or monitoring  
19 activities, or duty to allow entry for which delegation or approval  
20 of implementation and enforcement authority has been obtained  
21 pursuant to subdivision (l) of Section 112 of the Clean Air Act (42  
22 U.S.C. ~~Section~~ *Sec. 7412(l)*) or the regulations adopted pursuant  
23 thereto, adopted pursuant to Section 39659 or Article 4  
24 (commencing with Section 39665) or which is implemented and  
25 enforced as authorized by subdivision (b) of Section 39658 is  
26 strictly liable for a civil penalty not to exceed ~~ten thousand dollars~~  
27 ~~(\$10,000)~~ *fifty thousand dollars (\$50,000)* for each day ~~in~~ *during*  
28 *any portion of* which the violation occurs.

29 (2) Where a civil penalty in excess of ~~one thousand dollars~~  
30 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day of violation  
31 is sought, there is no liability under *subdivision (a) or paragraph*  
32 *(1) for an amount above five thousand dollars (\$5,000) for each*  
33 *day during any portion of which a violation occurs*, if the person  
34 accused of the violation alleges by affirmative defense and  
35 establishes that the violation is caused by an act ~~which~~ *that was*  
36 not the result of intentional or negligent conduct. In a district in  
37 which a Title V permit program has been fully approved, this  
38 paragraph shall not apply to a violation of federally enforceable  
39 requirements that occur at a Title V source.

1 (3) Paragraph (2) shall not apply to a violation of a toxic air  
2 contaminant rule, regulation, permit, order, fee requirement, filing  
3 requirement, duty to allow or carry out inspection or monitoring  
4 activities, or duty to allow entry for which delegation or approval  
5 of implementation and enforcement authority has been obtained  
6 pursuant to subdivision (l) of Section 112 of the Clean Air Act (~~42~~  
7 ~~U.S.C. Sec. 7412(l)~~), or the regulations adopted pursuant thereto.

8 SEC. 5. Section 42400 of the Health and Safety Code is  
9 amended to read:

10 42400. (a) Except as otherwise provided in Section 42400.1,  
11 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates  
12 this part, or any rule, regulation, permit, or order of the state board  
13 or of a district, including a district hearing board, adopted pursuant  
14 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
15 with Section 41500), inclusive, is guilty of a misdemeanor and is  
16 subject to a fine of not more than ~~one thousand dollars (\$1,000)~~  
17 *ten thousand dollars (\$10,000)* or imprisonment in the county jail  
18 for not more than six months, or both.

19 (b) If a violation under subdivision (a) with regard to the failure  
20 to operate a vapor recovery system on a gasoline cargo tank is  
21 directly caused by the actions of an employee under the supervision  
22 of, or of any independent contractor working for, any person  
23 subject to this part, the employee or independent contractor, as the  
24 case may be, causing the violation is guilty of a misdemeanor and  
25 is punishable as provided in subdivision (a). That liability shall  
26 not extend to the person employing the employee or retaining the  
27 independent contractor, unless that person is separately guilty of  
28 an action that violates this part.

29 (c) *Any person who owns or operates any source of air*  
30 *contaminants in violation of Section 41700 that causes a*  
31 *substantial risk of actual injury, as defined in subdivision (e), to*  
32 *another person, whether the risk of injury is immediate or in the*  
33 *future, is guilty of a misdemeanor and is subject to a fine of not*  
34 *more than twenty-five thousand dollars (\$25,000) or imprisonment*  
35 *in the county jail for not more than nine months or both.*

36 (e)

37 (d) Any person who owns or operates any source of air  
38 contaminants in violation of Section 41700 that causes actual  
39 injury, as defined in subdivision ~~(d)~~ (e), ~~to the health or safety of~~  
40 ~~a considerable number of persons or the public~~ *another person*, is

1 guilty of a misdemeanor and is subject to a fine of not more than  
2 fifteen thousand dollars (~~\$15,000~~) *fifty thousand dollars (\$50,000)*  
3 or imprisonment in the county jail for not more than nine months,  
4 or both.

5 ~~(d)~~

6 (e) As used in this section, “actual injury” means any physical  
7 injury that, in the opinion of a licensed physician and surgeon,  
8 requires medical treatment involving more than a physical  
9 examination.

10 ~~(e)~~

11 (f) Each day during any portion of which a violation of  
12 subdivision (a) ~~or~~, (c), or (d) occurs is a separate offense.

13 SEC. 6. Section 42400.1 of the Health and Safety Code is  
14 amended to read:

15 42400.1. (a) Any person who negligently emits an air  
16 contaminant in violation of any provision of this part or any rule,  
17 regulation, permit, or order of the state board or of a district  
18 pertaining to emission regulations or limitations is guilty of a  
19 misdemeanor and is punishable by a fine of not more than  
20 twenty-five thousand dollars (\$25,000), or imprisonment in a  
21 county jail for not more than nine months, ~~or by both that fine and~~  
22 ~~imprisonment.~~

23 (b) *Any person who negligently emits an air contaminant in*  
24 *violation of Section 41700 that causes a substantial risk of actual*  
25 *injury, as defined in subdivision (e) of Section 42400, to another*  
26 *person, whether the risk of injury is immediate or in the future, is*  
27 *guilty of a misdemeanor and is punishable by a fine of not more*  
28 *than fifty thousand dollars (\$50,000) or imprisonment in the county*  
29 *jail for not more than nine months, or both.*

30 (c) *Any person who negligently emits an air contaminant in*  
31 *violation of Section 41700 that causes actual injury, as defined in*  
32 *subdivision (e) of Section 42400, to another person, is guilty of a*  
33 *misdemeanor and is punishable by a fine of not more than*  
34 *seventy-five thousand dollars (\$75,000) or imprisonment in the*  
35 *county jail for not more than nine months, or both.*

36 ~~(b)~~

37 (d) Any person who negligently emits an air contaminant in  
38 violation of Section 41700 that causes great bodily injury, as  
39 defined by Section 12022.7 of the Penal Code, to, or death of, any  
40 person, is guilty of a misdemeanor and is punishable by a fine of

1 not more than one hundred thousand dollars (\$100,000), or  
2 imprisonment in a county jail for not more than one year, or ~~by~~  
3 ~~both that fine and imprisonment.~~

4 (e)

5 (e) Each day during any portion of which a violation occurs is  
6 a separate offense.

7 SEC. 7. Section 42400.2 of the Health and Safety Code is  
8 amended to read:

9 42400.2. (a) Any person who emits an air contaminant in  
10 violation of any provision of this part, or any order, rule, regulation,  
11 or permit of the state board or of a district pertaining to emission  
12 regulations or limitations, and who knew of the emission and failed  
13 to take corrective action within a reasonable period of time under  
14 the circumstances, is guilty of a misdemeanor and is punishable  
15 by a fine of not more than forty thousand dollars (\$40,000), or  
16 imprisonment in a county jail for not more than one year, or ~~by~~  
17 ~~both that fine and imprisonment.~~

18 (b) For purposes of this section, “corrective action” means the  
19 termination of the emission violation or the grant of a variance  
20 from the applicable order, rule, regulation, or permit pursuant to  
21 Article 2 (commencing with Section 42350). If a district regulation  
22 regarding process upsets or equipment breakdowns would allow  
23 continued operation of equipment which is emitting air  
24 contaminants in excess of allowable limits, compliance with that  
25 regulation is deemed to be corrective action.

26 (c) *Any person who owns or operates any source of air*  
27 *contaminants in violation of Section 41700 that causes a*  
28 *substantial risk of actual injury, as defined in subdivision (e) of*  
29 *Section 42400, to another person, whether the risk of injury is*  
30 *immediate or in the future, and who knew of the discharge and*  
31 *failed to take corrective action within a reasonable period of time*  
32 *under the circumstances, is guilty of a misdemeanor and is subject*  
33 *to a fine of not more than seventy-five thousand dollars (\$75,000),*  
34 *or imprisonment in the county jail for not more than nine months,*  
35 *or both.*

36 (d) *Any person who owns or operates any source of air*  
37 *contaminants in violation of Section 41700 that causes actual*  
38 *injury, as defined in subdivision (e) of Section 42400, to another*  
39 *person, and who knew of the discharge and failed to take corrective*  
40 *action within a reasonable period of time under the circumstances,*

1 *is guilty of a misdemeanor and is subject to a fine of not more than*  
2 *one hundred thousand dollars (\$100,000), or imprisonment in the*  
3 *county jail for not more than nine months, or both.*

4 ~~(e)~~

5 (e) Any person who owns or operates any source of air  
6 contaminants in violation of Section 41700 that causes great bodily  
7 injury, as defined by Section 12022.7 of the Penal Code, to, or  
8 death of, any person, and who knew of the emission and failed to  
9 take corrective action within a reasonable period of time under the  
10 circumstances, is guilty of a misdemeanor and is punishable by a  
11 fine of not more than two hundred fifty thousand dollars  
12 (\$250,000), or imprisonment in a county jail for not more than one  
13 year, or ~~by both that fine and imprisonment.~~

14 ~~(d)~~

15 (f) Each day during any portion of which a violation occurs  
16 constitutes a separate offense.

17 SEC. 8. Section 42400.3 of the Health and Safety Code is  
18 amended to read:

19 42400.3. (a) Any person who willfully and intentionally emits  
20 an air contaminant in violation of any provision of this part or any  
21 rule, regulation, permit, or order of the state board or of a district,  
22 pertaining to emission regulations or limitations, is guilty of a  
23 misdemeanor and is punishable by a fine of not more than  
24 seventy-five thousand dollars (\$75,000), or imprisonment in a  
25 county jail for not more than one year, or ~~by both that fine and~~  
26 ~~imprisonment.~~

27 (b) Any person who willfully and intentionally, or with reckless  
28 disregard for the risk of causing actual injury, as defined in  
29 subdivision (e) of Section 42400, emits an air contaminant in  
30 violation of Section 41700 that causes a substantial risk of actual  
31 injury to another person, whether the risk of injury is immediate  
32 or in the future, is guilty of a misdemeanor and is punishable by  
33 a fine of not more than one hundred thousand dollars (\$100,000),  
34 or imprisonment in a county jail for not more than one year, or  
35 both.

36 (c) Any person who willfully and intentionally, or with reckless  
37 disregard for the risk of causing actual injury, as defined in  
38 subdivision (e) of Section 42400, emits an air contaminant in  
39 violation of Section 41700 that causes actual injury to another  
40 person, is guilty of a misdemeanor and is punishable by a fine of

1 *not more than one hundred twenty-five thousand dollars*  
2 *(\$125,000), or imprisonment in a county jail for not more than*  
3 *one year, or both. However, if the defendant is a corporation, the*  
4 *maximum fine is two hundred fifty thousand dollars (\$250,000).*

5 (b)

6 (d) Any person who willfully and intentionally, or with reckless  
7 disregard for the risk of great bodily injury, as defined by Section  
8 12022.7 of the Penal Code, to, or death of, any person, emits an  
9 air contaminant in violation of Section 41700 that results in any  
10 unreasonable risk of great bodily injury to, or death of, any person,  
11 is guilty of a public offense and is punishable by a fine of not more  
12 ~~than one hundred twenty-five thousand dollars (\$125,000)~~ *one*  
13 *hundred fifty thousand dollars (\$150,000), or imprisonment in a*  
14 *county jail for not more than one year, or by both that fine and*  
15 ~~imprisonment.~~ However, if the defendant is a corporation, the  
16 maximum fine ~~may be up to~~ *is* five hundred thousand dollars  
17 (\$500,000).

18 (e)

19 (e) Any person who willfully and intentionally, or with reckless  
20 disregard for the risk of great bodily injury, as defined by Section  
21 12022.7 of the Penal Code, to, or death of, any person emits an air  
22 contaminant in violation of Section 41700 that causes great bodily  
23 injury to, or death of, any person is guilty of a public offense, and  
24 is punishable by a fine of not more than ~~two hundred fifty thousand~~  
25 ~~dollars (\$250,000)~~ *five hundred thousand dollars (\$500,000), or*  
26 *imprisonment in a county jail for not more than one year, or both*  
27 *that fine and imprisonment, or is punishable by a fine of not more*  
28 *than two hundred fifty thousand dollars (\$250,000) five hundred*  
29 *thousand dollars (\$500,000), or imprisonment in the state prison,*  
30 *or by both that fine and imprisonment. If the defendant is a*  
31 *corporation, the maximum fine may be up to is* one million dollars  
32 (\$1,000,000).

33 (f)

34 (f) Each day during any portion of which a violation occurs  
35 constitutes a separate offense.

36 (g)

37 (g) This section does not preclude punishment under Section  
38 189 or 192 of the Penal Code or any other provision of law that  
39 provides a more severe punishment.

40 (h)

1 (h) For the purposes of this section:

2 (1) “Great bodily injury” means great bodily injury as defined  
3 by Section 12022.7 of the Penal Code.

4 (2) “Imprisonment in state prison” means imprisonment in the  
5 state prison for 16 months, or two or three years.

6 (3) “Unreasonable risk of great bodily injury or death” means  
7 substantial probability of great bodily injury or death.

8 SEC. 9. Section 42400.3.5 of the Health and Safety Code is  
9 amended to read:

10 42400.3.5. ~~(a)~~ Any person who knowingly violates any rule,  
11 regulation, permit, order, fee requirement, or filing requirement  
12 of the state board or of a district, including a district hearing board,  
13 that is adopted for the control of toxic air contaminants pursuant  
14 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
15 with Section 41500), inclusive, and for which delegation or  
16 approval of implementation and enforcement authority has been  
17 obtained pursuant to subdivision (l) of Section 112 of the Clean  
18 Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted  
19 pursuant thereto, is guilty of a misdemeanor and is subject to a  
20 fine of not more than ten thousand dollars (\$10,000) or  
21 imprisonment in the county jail for not more than six months, or  
22 both.

23 ~~(b) Any person who knowingly makes any false material~~  
24 ~~statement, representation, or certification in any form or in any~~  
25 ~~notice or report required by a rule or regulation adopted or permit~~  
26 ~~issued for the control of toxic air contaminants pursuant to Part 1~~  
27 ~~(commencing with Section 39000) to Part 4 (commencing with~~  
28 ~~Section 41500), inclusive, and for which delegation or approval~~  
29 ~~of implementation and enforcement authority has been obtained~~  
30 ~~pursuant to subdivision (l) of Section 112 of the Clean Air Act (42~~  
31 ~~U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto,~~  
32 ~~or who knowingly renders inaccurate any monitoring device~~  
33 ~~required by that toxic air contaminant rule, regulation, or permit~~  
34 ~~is subject to a fine of not more than thirty-five thousand dollars~~  
35 ~~(\$35,000) or imprisonment in the county jail for not more than~~  
36 ~~nine months, or both.~~

37 ~~(c) Any person who, knowingly and with intent to deceive,~~  
38 ~~falsifies any document required to be kept pursuant to any provision~~  
39 ~~of this part, or any rule, regulation, permit, notice to comply, or~~

1 order of the state board or of a district, is punishable as provided  
2 in subdivision (b).

3 ~~(d) Subdivisions (a) and (b) shall apply only to those violations~~  
4 ~~that are not otherwise subject to a fine of ten thousand dollars~~  
5 ~~(\$10,000) or more pursuant to Section 42400.1, 42400.2, or~~  
6 ~~42400.3.~~

7 SEC. 10. Section 42400.3.7 is added to the Health and Safety  
8 Code, to read:

9 42400.3.7. (a) Any person who knowingly makes any false  
10 material statement, representation, or certification in any form,  
11 notice, or report required to be kept pursuant to any provision of  
12 this part, or any rule, regulation, permit, or order of the state board  
13 or of a district, including a district hearing board, or who knowingly  
14 renders inaccurate any monitoring device required by any such  
15 rule, regulation, permit, or order, is subject to a fine of not more  
16 than fifty thousand dollars (\$50,000) or imprisonment in the county  
17 jail for not more than nine months, or both.

18 (b) Any person who knowingly and with intent to deceive makes  
19 any false material statement, representation, or certification in any  
20 form, notice, or report required to be kept pursuant to any provision  
21 of this part, or any rule, regulation, permit, or order of the state  
22 board or of a district, including a district hearing board, or who  
23 knowingly and with intent to deceive renders inaccurate any  
24 monitoring device required by any such rule, regulation, permit,  
25 or order, is subject to a fine of not more than one hundred thousand  
26 dollars (\$100,000) or imprisonment in the county jail for not more  
27 than one year, or both.

28 (c) Nothing in this section shall preclude prosecution under any  
29 other law.

30 SEC. 11. Section 42400.6 of the Health and Safety Code is  
31 amended to read:

32 42400.6. A fine or monetary penalty specified in Section 39674;  
33 ~~subdivision (a), (b), (d), or (e) of, subdivisions (a) and (b) of~~  
34 ~~Section 42400;, Section 42402;, or subdivision (a) of Section 44381~~  
35 of this code, that may be imposed as the result of conduct that is  
36 also subject to Chapter 5 (commencing with Section 17200) of  
37 Part 2 of Division 7 of the Business and Professions Code, may  
38 be collected either under those provisions of this code, or under  
39 that chapter of the Business and Professions Code, but not under  
40 both.

1 SEC. 12. Section 42400.9 is added to the Health and Safety  
 2 Code, to read:

3 42400.9. An act or omission that is criminally punishable in  
 4 different ways by different provisions of this article shall be  
 5 punished under the provision that provides for the highest  
 6 maximum penalty and shall not be punished criminally under more  
 7 than one provision.

8 SEC. 13. Section 42401 of the Health and Safety Code is  
 9 amended to read:

10 42401. ~~Any~~ *Except as otherwise provided in subdivision (b)*  
 11 *of Section 42402, any person who intentionally or negligently*  
 12 *violates any order of abatement issued by a district pursuant to*  
 13 *Section 42450, by a hearing board pursuant to Section 42451, or*  
 14 *by the state board pursuant to Section 41505 is liable for a civil*  
 15 *penalty of not more than twenty-five thousand dollars (\$25,000)*  
 16 *for each day in which the violation occurs.*

17 SEC. 14. Section 42402 of the Health and Safety Code is  
 18 amended to read:

19 42402. (a) Except as provided in Sections 42402.1, 42402.2,  
 20 42402.3, and 42402.4, any person who violates this part, any order  
 21 issued pursuant to Section 42316, or any rule, regulation, permit,  
 22 or order of a district, including a district hearing board, or of the  
 23 state board issued pursuant to Part 1 (commencing with Section  
 24 39000) to Part 4 (commencing with Section 41500), inclusive, is  
 25 strictly liable for a civil penalty of not more than ~~one thousand~~  
 26 ~~dollars (\$1,000)~~ *ten thousand dollars (\$10,000)*.

27 (b) (1) Any person who violates any provision of this part, any  
 28 order issued pursuant to Section 42316, or any rule, regulation,  
 29 permit or order of a district, including a district hearing board, or  
 30 of the state board issued pursuant to Part 1 (commencing with  
 31 Section 39000) to Part 4 (commencing with Section 41500),  
 32 inclusive, is strictly liable for a civil penalty of not more than ~~ten~~  
 33 ~~thousand dollars (\$10,000)~~ *fifty thousand dollars (\$50,000)*.

34 (2) (A) If a civil penalty in excess of ~~one thousand dollars~~  
 35 ~~(\$1,000)~~ *five thousand dollars (\$5,000)* for each day in which a  
 36 violation occurs is sought, there is no liability under ~~this~~  
 37 ~~subdivision (a) or paragraph (1) for an amount above five thousand~~  
 38 ~~dollars (\$5,000) for each day during any portion of which a~~  
 39 ~~violation occurs, if the person accused of the violation alleges by~~  
 40 ~~affirmative defense and establishes that the violation was caused~~

1 by an act that was not the result of intentional nor negligent  
2 conduct.

3 (B) Subparagraph (A) shall not apply to a violation of federally  
4 enforceable requirements that occur at a Title V source in a district  
5 in which a Title V permit program has been fully approved.

6 (C) Subparagraph (A) does not apply to a person who is  
7 determined to have violated an annual facility emissions cap  
8 established pursuant to a market based incentive program adopted  
9 by a district pursuant to subdivision (b) of Section 39616.

10 *(c) Any person who owns or operates any source of air*  
11 *contaminants in violation of Section 41700 that causes a*  
12 *substantial risk of actual injury, as defined in subdivision (e) of*  
13 *Section 42400, to another person, whether the risk of injury is*  
14 *immediate or in the future, is liable for a civil penalty of not more*  
15 *than twenty-five thousand dollars (\$25,000).*

16 ~~(e)~~

17 *(d) Any person who owns or operates any source of air*  
18 *contaminants in violation of Section 41700 that causes actual*  
19 *injury, as defined in subdivision ~~(d)~~ (e) of Section 42400, to the*  
20 *health and safety of a considerable number of persons or the public*  
21 *another person, is liable for a civil penalty of not more than fifteen*  
22 *thousand dollars ~~(\$15,000) fifty thousand dollars (\$50,000).~~*

23 ~~(d)~~

24 *(e) Each day during any portion of which a violation occurs is*  
25 *a separate offense.*

26 SEC. 15. Section 42402.1 of the Health and Safety Code is  
27 amended to read:

28 42402.1. (a) Any person who negligently emits an air  
29 contaminant in violation of this part or any rule, regulation, permit,  
30 or order of the state board or of a district, including a district  
31 hearing board, pertaining to emission regulations or limitations is  
32 liable for a civil penalty of not more than twenty-five thousand  
33 dollars (\$25,000).

34 *(b) Any person who negligently emits an air contaminant in*  
35 *violation of Section 41700 that causes a substantial risk of actual*  
36 *injury, as defined in subdivision (e) of Section 42400, to another*  
37 *person, whether the risk of injury is immediate or in the future, is*  
38 *liable for a civil penalty of not more than fifty thousand dollars*  
39 *(\$50,000).*

1 (c) Any person who negligently emits an air contaminant in  
 2 violation of Section 41700 that causes actual injury, as defined in  
 3 subdivision (e) of Section 42400, to another person is liable for a  
 4 civil penalty of not more than seventy-five thousand dollars  
 5 (\$75,000).

6 ~~(b)~~

7 (d) Any person who negligently emits an air contaminant in  
 8 violation of Section 41700 that causes great bodily injury, as  
 9 defined by Section 12022.7 of the Penal Code, to any person or  
 10 that causes the death of any person; is liable for a civil penalty of  
 11 not more than one hundred thousand dollars (\$100,000).

12 ~~(e)~~

13 (e) Each day during any portion of which a violation occurs is  
 14 a separate offense.

15 SEC. 16. Section 42402.2 of the Health and Safety Code is  
 16 amended to read:

17 42402.2. (a) Any person who emits an air contaminant in  
 18 violation of any provision of this part, or any order, rule, regulation,  
 19 or permit of the state board or of a district, including a district  
 20 hearing board, pertaining to emission regulations or limitations,  
 21 and who knew of the emission and failed to take corrective action,  
 22 as defined in subdivision (b) of Section 42400.2, within a  
 23 reasonable period of time under the circumstances, is liable for a  
 24 civil penalty of not more than forty thousand dollars (\$40,000).

25 (b) Any person who emits an air contaminant in violation of  
 26 Section 41700 that causes a substantial risk of actual injury, as  
 27 defined in subdivision (e) of Section 42400, to another person,  
 28 whether the risk of injury is immediate or in the future, and who  
 29 knew of the discharge and failed to take corrective action, as  
 30 defined in subdivision (b) of Section 42400.2, within a reasonable  
 31 period of time under the circumstances, is liable for a civil penalty  
 32 of not more than seventy-five thousand dollars (\$75,000).

33 (c) Any person who emits an air contaminant in violation of  
 34 Section 41700 that causes actual injury, as defined in subdivision  
 35 (e) of Section 42400, to another person, and who knew of the  
 36 discharge and failed to take corrective action, as defined in  
 37 subdivision (b) of Section 42400.2, within a reasonable period of  
 38 time under the circumstances, is liable for a civil penalty of not  
 39 more than one hundred thousand dollars (\$100,000).

40 ~~(b)~~

1 (d) Any person who owns or operates any source of air  
2 contaminants in violation of Section 41700 that causes great bodily  
3 injury, as defined by Section 12022.7 of the Penal Code, to any  
4 person or that causes the death of any person, and who knew of  
5 the emission and failed to take corrective action, as defined in  
6 subdivision (b) of Section 42400.2, within a reasonable period of  
7 time under the circumstances, is liable for a civil penalty not to  
8 exceed two hundred fifty thousand dollars (\$250,000).

9 (e)

10 (e) Each day during any portion of which a violation occurs is  
11 a separate offense.

12 SEC. 17. Section 42402.3 of the Health and Safety Code is  
13 amended to read:

14 42402.3. (a) Any person who willfully and intentionally emits  
15 an air contaminant in violation of this part or any rule, regulation,  
16 permit, or order of the state board, or of a district, including a  
17 district hearing board, pertaining to emission regulations or  
18 limitations, is liable for a civil penalty of not more than  
19 seventy-five thousand dollars (\$75,000).

20 (b) Any person who willfully and intentionally, or with reckless  
21 disregard for the risk of causing actual injury, as defined in  
22 subdivision (e) of Section 42400, emits an air contaminant in  
23 violation of Section 41700 that results in a substantial risk of actual  
24 injury to another person, whether the risk of injury is immediate  
25 or in the future, is liable for a civil penalty of not more than one  
26 hundred thousand dollars (\$100,000).

27 (c) Any person who willfully and intentionally, or with reckless  
28 disregard for the risk of causing actual injury, as defined in  
29 subdivision (e) of Section 42400, emits an air contaminant in  
30 violation of Section 41700 that results in actual injury to another  
31 person, is liable for a civil penalty of not more than one hundred  
32 twenty-five thousand dollars (\$125,000). If the defendant is a  
33 corporation, the maximum fine shall be two hundred fifty thousand  
34 dollars (\$250,000).

35 (b)

36 (d) Any person who willfully and intentionally, or with reckless  
37 disregard for the risk of great bodily injury, as defined by Section  
38 12022.7 of the Penal Code, to, or death of, any person, emits an  
39 air contaminant in violation of Section 41700 that results in an  
40 unreasonable risk of great bodily injury to, or death of, any person,

1 is liable for a civil penalty of not more than ~~one hundred~~  
 2 ~~twenty-five thousand dollars (\$125,000)~~ *one hundred fifty thousand*  
 3 *dollars (\$150,000)*. If the violator is a corporation, the maximum  
 4 penalty ~~may be up to~~ *is* five hundred thousand dollars (\$500,000).

5 (e)  
 6 (e) Any person who willfully and intentionally, or with reckless  
 7 disregard for the risk of great bodily injury, as defined by Section  
 8 12022.7 of the Penal Code, to, or death of, any person, emits an  
 9 air contaminant in violation of Section 41700 that causes great  
 10 bodily injury, as defined by Section 12022.7 of the Penal Code,  
 11 to any person or that causes the death of any person, is liable for  
 12 a civil penalty of not more than ~~two hundred fifty thousand dollars~~  
 13 ~~(\$250,000)~~ *five hundred thousand dollars (\$500,000)*. If the  
 14 violator is a corporation, the maximum penalty may be up to one  
 15 million dollars (\$1,000,000).

16 (d)  
 17 (f) Each day during any portion of which a violation occurs is  
 18 a separate offense.

19 SEC. 18. Section 42402.4 of the Health and Safety Code is  
 20 amended to read:

21 42402.4. (a) *Any person who knowingly makes any false*  
 22 *material statement, representation, or certification in any form,*  
 23 *notice, or report required to be kept pursuant to any provision of*  
 24 *this part, or any rule, regulation, permit, or order of the state*  
 25 *board or of a district, including a district hearing board, or who*  
 26 *knowingly renders inaccurate any monitoring device required by*  
 27 *any such rule, regulation, permit, or order, is liable for a civil*  
 28 *penalty of not more than fifty thousand dollars (\$50,000).*

29 (b) Any person who knowingly and with intent to deceive,  
 30 ~~falsifies any document~~ *makes any false material statement,*  
 31 *representation, or certification in any form, notice, or report*  
 32 *required to be kept pursuant to any provision of this part, or any*  
 33 *rule, regulation, permit, or order of the state board or of a district,*  
 34 *including a district hearing board, or who knowingly and with*  
 35 *intent to deceive renders inaccurate any monitoring device required*  
 36 *by any such rule, regulation, permit, or order, is liable for a civil*  
 37 *penalty of not more than* ~~thirty-five thousand dollars (\$35,000)~~  
 38 *one hundred thousand dollars (\$100,000).*

39 SEC. 19. Section 42402.4.5 is added to the Health and Safety  
 40 Code, to read:

1 42402.4.5. Any person who knowingly violates any rule,  
2 regulation, permit, order, fee requirement, or filing requirement  
3 of the state board or of a district, including a district hearing board,  
4 that is adopted for the control of toxic air contaminants pursuant  
5 to Part 1 (commencing with Section 39000) to Part 4 (commencing  
6 with Section 41500), inclusive, and for which delegation or  
7 approval of implementation and enforcement authority has been  
8 obtained pursuant to subdivision (I) of Section 112 of the Clean  
9 Air Act (42 U.S.C. Sec. 7412(I)), or the regulations adopted  
10 pursuant thereto, is liable for a civil penalty of not more than ten  
11 thousand dollars (\$10,000).

12 SEC. 20. Section 42402.6 is added to the Health and Safety  
13 Code, to read:

14 42402.6. An act or omission that is punishable by different  
15 civil penalties pursuant to different provisions of this article shall  
16 be punished under the provision that provides for the highest  
17 maximum civil penalty and shall not be punished civilly under  
18 more than one provision.

19 SEC. 21. If the Commission on State Mandates determines  
20 that this act contains costs mandated by the state, reimbursement  
21 to local agencies and school districts for those costs shall be made  
22 pursuant to Part 7 (commencing with Section 17500) of Division  
23 4 of Title 2 of the Government Code.

**ASSEMBLY BILL**

**No. 463**

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**Introduced by Assembly Member Huffman**

February 20, 2007

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An act to amend the heading of Chapter 3.3 (commencing with Section 39630) of, and to add Article 2 (commencing with Section 39640) and the heading of Article 1 (commencing with Section 39630) to Chapter 3.3 of, Part 2 of Division 26 of, the Health and Safety Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 463, as introduced, Huffman. Vessels: California Clean Ferry Act of 2007: air emissions.

(1) Existing law establishes the State Air Resources Board as having responsibility for the control of motor vehicle emissions and to protect air quality from increasing volumes of cruise ship engine and oceangoing ship engine emissions. The state board is required to adopt standards, rules, and regulations necessary for the proper execution of its powers and duties. Existing law generally provides that a violation of any regulation of the state board is a crime.

This bill would require all new diesel powered ferries operating in the waters of this state, to meet certain specified air emissions standards. The air emissions standards would be enforced by the state board, and the state board would be authorized to adopt standards, rules, and regulations for that purpose.

Because this bill would create a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The heading of Chapter 3.3 (commencing with  
2 Section 39630) of Part 2 of Division 26 of the Health and Safety  
3 Code is amended to read:

4  
5 CHAPTER 3.3. ~~CRUISE SHIPS AND OCEANGOING SHIPS~~ VESSELS  
6

7 SEC. 2. The heading of Article 1 (commencing with Section  
8 39630) is added to Chapter 3.3 of Part 2 of Division 26 of the  
9 Health and Safety Code, to read:

10  
11 Article 1. Cruise Ships and Oceangoing Ships  
12

13 SEC. 3. Article 2 (commencing with Section 39640) is added  
14 to Chapter 3.3 of Part 2 of Division 26 of the Health and Safety  
15 Code, to read:

16  
17 Article 2. The California Clean Ferry Act of 2007  
18

19 39640. The Legislature finds and declares all of the following:

20 (a) It is in the interests of all Californians to protect air quality  
21 from increasing volumes of diesel-powered ferry engine emissions  
22 due to expanding fleets.

23 (b) While new ferry operations may offer certain benefits to  
24 Californians, diesel-powered ferry engines emit more air pollution  
25 per passenger mile than land based transportation modes.

26 (c) All new diesel-powered ferries in this state shall meet the  
27 same air quality standards currently set forth in statutes governing  
28 the expansion of ferry service in the San Francisco Bay.

29 39641. As used in this article, unless the context clearly requires  
30 a different meaning:

1 (a) “Diesel engine” means an internal combustion,  
2 compression-ignition engine designed to burn diesel fuel.

3 (b) “Diesel-powered” means a ferry equipped with and powered  
4 by a diesel engine.

5 (c) “Ferry” means a vessel engaged in the commercial transport  
6 of passengers with the capacity to transport 75 or more passengers,  
7 including, but not limited to, ferries engaged in commuter service,  
8 excursions, charter service, waterborne transit, or emergency  
9 response service.

10 (d) “New ferry” means any of the following:

11 (1) A ferry where the engine was installed on or after January  
12 1, 2008.

13 (2) A ferry that had its keel laid on or after January 1, 2008.

14 (3) A ferry placed into service for the first time on or after  
15 January 1, 2008.

16 (e) “Waters of this state” means any waters within the territorial  
17 limits of this state.

18 (f) “Recreational vessel” means a vessel that is being used only  
19 for pleasure.

20 39642. (a) Each new diesel-powered ferry operating in the  
21 waters of this state shall meet the air emissions standards  
22 established pursuant to Section 65540.27 of the Government Code.

23 (b) The state board shall enforce this article and may adopt  
24 standards, rules, and regulations for that purpose pursuant to  
25 Section 39601.

26 (c) This section shall not apply to recreational vessels, cruise  
27 ships, and oceangoing vessels.

28 SEC. 4. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.

**ASSEMBLY BILL**

**No. 493**

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**Introduced by Assembly Member Ruskin**

February 20, 2007

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An act to add Article 3 (commencing with Section 43300) to Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as introduced, Ruskin. Motor vehicle greenhouse gas emissions: incentive program.

Existing law designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution and as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020, and is required to adopt rules and regulations in an open-public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would require the state board to create and implement a clean vehicle incentive program meeting specified requirements, that would provide rebates to, and require surcharges from, purchasers of new motor vehicles based on the vehicles' greenhouse gas emissions to mitigate against emissions of greenhouse gases from motor vehicles.

The bill would create the Clean Vehicle Incentive Account to be administered by the state board in consultation with the State Board of Equalization. All funds collected from surcharges would be required

to be deposited into this account and all clean vehicle discounts would be required to be taken from the account. Moneys in the fund would be continuously appropriated to the state board to fund the clean vehicle incentive program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 3 (commencing with Section 43300) is  
2 added to Chapter 2 of Part 5 of Division 26 of the Health and Safety  
3 Code, to read:

4

5 Article 3. Clean Vehicle Incentive Program

6

7 43300. The Legislature finds and declares all of the following:

8 (a) According to the State Energy Resources Conservation and  
9 Development Commission, the transportation sector is the largest  
10 source of greenhouse gas emissions in California.

11 (b) Multiple independent economic studies indicate that  
12 undertaking action to reduce greenhouse gas emissions will likely  
13 create long-term economic benefits to the state’s economy.

14 (c) While substantial progress has been made in reducing  
15 smog-forming emissions from new motor vehicles, there remain  
16 disparities in the amount of allowable emissions of criteria  
17 pollutants among the identified categories of exhaust emissions  
18 standards for passenger vehicles and light-duty trucks sold in  
19 California.

20 (d) Monetary incentives can augment existing state vehicle  
21 emissions standards by encouraging automobile buyers to purchase  
22 cleaner vehicles and by encouraging manufacturers to offer more  
23 low-emitting vehicle choices to California consumers.

24 (e) One-time rebates on the purchase of new motor vehicles that  
25 emit low amounts of greenhouse gases are a reasonable and  
26 appropriate method to incentivize the purchase of these vehicles.

27 (f) One-time surcharges on the purchase of new motor vehicles  
28 that emit high amounts of greenhouse gases are a reasonable and  
29 appropriate method to disincentivize the purchase of and internalize  
30 the environmental cost to the public of these vehicles.

1 (g) The creation of a clean vehicle incentive program to reduce  
2 greenhouse gas emissions from motor vehicles is a market-based  
3 mechanism that does not create any new regulatory standard under  
4 the law.

5 (h) Recent studies authorized by the California Environmental  
6 Protection Agency and the State Energy Resources Conservation  
7 and Development Commission have found that the impact of global  
8 warming to California residents is likely to be quite severe,  
9 especially if action to curb global warming emissions is not taken.

10 43300.5. (a) It is the intent of the Legislature in enacting this  
11 article to establish a market-based clean vehicle incentive program  
12 consisting of one-time rebates and one-time surcharges on the  
13 purchase of new motor vehicles to mitigate against emissions of  
14 greenhouse gases from motor vehicles.

15 (b) It is the intent of the Legislature that this program be  
16 self-financing and not increase expenditures from or reduce  
17 revenues into the General Fund.

18 43301. For purposes of this article, the following terms have  
19 the following meanings:

20 (a) “Account” means the Clean Vehicle Incentive Account  
21 created by Section 43313.

22 (b) “Carbon dioxide equivalent” means a metric, as determined  
23 by the state board, used to compare or identify the emissions from  
24 various greenhouse gases based upon their global warming  
25 potential derived by multiplying the tons of the gas by the  
26 associated global warming potential.

27 (c) “Contributory pollutant” means an air toxic pollutant or  
28 contaminant, including, but not limited to, black carbon, carbon  
29 monoxide, and nitrous oxide, for which the state board has  
30 determined contributes to global warming.

31 (d) “Criteria air pollutant” means an air pollutant for which the  
32 United States Environmental Protection Agency has issued primary  
33 or secondary national air quality standards pursuant to Sections  
34 108 and 109 of the federal Clean Air Act (42 U.S.C. Secs. 7408  
35 and 7409), including carbon monoxide, lead, nitrogen oxides,  
36 ozone, particulate matter, and sulfur dioxide.

37 (e) “Dealer” means dealer as defined in Section 285 of the  
38 Vehicle Code.

39 (f) “Department” means the Department of Finance.

1 (g) “Emergency vehicle” means an authorized emergency  
2 vehicle as defined in Section 165 of the Vehicle Code.

3 (h) “Greenhouse gas factor” means a dollar value, as determined  
4 by the state board, assigned to carbon dioxide equivalent emissions  
5 per mile from a motor vehicle. At the discretion of the state board,  
6 this may be expressed in dollars divided by grams of carbon  
7 dioxide equivalent per mile (\$/g CO<sub>2</sub> -eq/mi).

8 (i) “Greenhouse gases” means carbon dioxide,  
9 hydrofluorocarbons, methane, oxides of nitrogen, perfluorocarbons,  
10 and sulfur hexafluoride, and any other gases that the state board  
11 determines contributes significantly to global warming.

12 (j) “Motor vehicle” and “vehicle” mean a passenger vehicle,  
13 light-duty truck, or any other vehicle that is subject to the  
14 regulations pursuant to Section 43018.5, whether or not Section  
15 43018.5 remains in effect.

16 (k) “New motor vehicle” means new vehicle as defined in  
17 Section 430 of the Vehicle Code.

18 (l) “Program” means the Clean Vehicle Incentive Program  
19 established pursuant to this article.

20 (m) “Retail sale” means a retail sale as defined in Section 6007  
21 of the Revenue and Taxation Code of a new motor vehicle.

22 (n) “Zero band” means that portion of a linear scale of rebates  
23 and surcharges in which vehicles are assigned neither a rebate nor  
24 a surcharge.

25 43302. (a) (1) Any California resident who becomes a motor  
26 vehicle owner by purchasing a new motor vehicle at a retail sale  
27 in California shall receive a clean vehicle rebate for the purchase  
28 on or after July 1, 2010, of a new motor vehicle of model year  
29 2011 or later, determined by the state board to be eligible for a  
30 rebate in the amount assigned by the state board pursuant to  
31 regulations adopted under this article.

32 (2) The dealer shall clearly indicate the amount of the rebate  
33 owed to the new motor vehicle owner on the purchase receipt and  
34 contract, or lease agreement as applicable.

35 (3) In order to receive the rebate, the motor vehicle owner shall  
36 file a claim through the dealer at the time of purchase.

37 (4) The dealer shall facilitate and accept these claims from the  
38 new motor vehicle owner and shall submit these claims to the State  
39 Board of Equalization on a form prescribed by the State Board of  
40 Equalization, in a time, place, and manner determined by the State

1 Board of Equalization, that shall be accompanied by proof of  
2 vehicle purchase from the dealer. The proof of purchase shall  
3 include, at a minimum, all of the following:

- 4 (A) The date when the vehicle was purchased.
- 5 (B) The year, make, and model of the vehicle purchased.
- 6 (C) The vehicle identification number (VIN) of the vehicle.
- 7 (D) The price paid for the vehicle.

8 (5) The State Board of Equalization shall pay the rebate to the  
9 eligible new motor vehicle owner through electronic funds transfer  
10 if requested by the owner.

11 (6) No interest shall be paid on any rebate made pursuant to this  
12 article.

13 (b) (1) Except as otherwise provided for in this article, a person  
14 who becomes a motor vehicle owner by purchasing at a retail sale,  
15 on or after July 1, 2010, a new motor vehicle of model year 2011  
16 or later, determined by the state board to be subject to an emissions  
17 surcharge, shall pay the emissions surcharge in the amount  
18 determined by the state board pursuant to regulations adopted  
19 under this article.

20 (2) Dealers shall collect from the new motor vehicle owners the  
21 emission surcharge at the time of retail sale.

22 (3) Dealers shall clearly indicate the amount of the emissions  
23 surcharge paid by the new motor vehicle owner on the purchase  
24 receipt and contract, or lease agreement as applicable.

25 (4) All emissions surcharges collected by a dealer shall be owed  
26 to the state and be due and payable to the State Board of  
27 Equalization in a time, place, and manner prescribed by the State  
28 Board of Equalization.

29 43303. (a) No later than July 1, 2009, the state board, in  
30 consultation with those other agencies that the state board  
31 determines are appropriate, and after at least two public workshops,  
32 shall adopt regulations to create and implement a clean vehicle  
33 incentive program as described in this article.

34 (b) The regulations shall, consistent with Section 43304,  
35 establish a schedule of one-time clean vehicle rebates and one-time  
36 emissions surcharges for all new motor vehicles not otherwise  
37 excluded in this article.

38 (c) The schedule of rebates and surcharges shall take effect July  
39 1, 2010, and shall apply to motor vehicles with the 2011 model  
40 year and each model year thereafter.

1 43304. (a) The state board shall calculate, using a linear scale,  
2 the rebate or surcharge to be applied to any motor vehicle subject  
3 to the program based on the vehicle’s emissions of greenhouse  
4 gases, compared to the greenhouse gas emissions of all vehicles  
5 of the same model year that are subject to the program.

6 (b) To calculate the rebate or surcharge pursuant to subdivision  
7 (a), the board shall determine the difference between a motor  
8 vehicle’s emissions of greenhouse gases, as determined pursuant  
9 to Section 1961.1 of Title 13 of the California Code of Regulations,  
10 and the average emissions of greenhouse gases of all vehicles  
11 subject to the program, for a given model year. The difference  
12 identified for each vehicle based on emissions of greenhouse gases  
13 shall be multiplied by a greenhouse gases factor, to determine the  
14 amount of the rebate or surcharge attributed to emissions of  
15 greenhouse gases.

16 (c) The amount determined pursuant to subdivision (b) may be  
17 adjusted to account for one or both of the following, but no  
18 adjustments pursuant to this subdivision shall affect the rebate or  
19 surcharge by a factor larger than 20 percent:

20 (1) Emissions of contributory pollutants as determined by the  
21 state board.

22 (2) Emissions of criteria air pollutants based on the vehicle’s  
23 criteria pollutant certification category pursuant to Section 1961  
24 of Title 13 of the California Code of Regulations.

25 (d) Based on the calculations made pursuant to subdivisions (b)  
26 and (c), the state board shall assign a rebate or surcharge to every  
27 motor vehicle subject to this program that reflects its relative  
28 emissions of greenhouse gases and, at the discretion of the board,  
29 its relative emissions of contributory pollutants or criteria air  
30 pollutants, compared to all vehicles for the same model year that  
31 are subject to the program, and subject to all of the following:

32 (1) The state board shall establish a zero band that includes the  
33 midpoint of the linear scale and includes not less than 20 percent,  
34 nor more than 25 percent, of the fleet of a given model year. Motor  
35 vehicles that fall within the zero band shall not be assigned a rebate  
36 or a surcharge.

37 (A) The zero band shall be designed, placed, and adjusted along  
38 the linear scale to ensure that vehicle buyers continue to have a  
39 variety of choices among multiple vehicle types, including light  
40 trucks, that are not assigned a surcharge.

1 (B) The state board shall consider sales-weighted data in  
2 determining the placement of the zero band.

3 (2) The maximum rebate and surcharge shall not be less than  
4 two thousand two hundred fifty dollars (\$2,250) nor more than  
5 two thousand five hundred dollars (\$2,500), and no rebate or  
6 surcharge shall exceed the amount of the sales tax on the purchase  
7 price of the motor vehicle.

8 (3) No rebate or surcharge shall be less than one hundred dollars  
9 (\$100). Motor vehicles that would otherwise be assigned a rebate  
10 or surcharge of less than one hundred dollars (\$100) shall be placed  
11 in the zero band.

12 (4) The state board may round up or down the assigned rebate  
13 and surcharge amounts to the nearest twenty-five dollars (\$25) for  
14 each vehicle.

15 (e) When setting the schedule of rebates and surcharges for  
16 vehicles of a given model year, the state board shall consider  
17 previous years sales data and projected sales of motor vehicles in  
18 order to ensure that the program will incentivize reductions in  
19 greenhouse gas emissions and be self-financing.

20 43305. (a) The schedule of rebates and surcharges shall be  
21 designed to ensure that the program will be self-financing and will  
22 generate adequate revenues to do all the following:

23 (1) Fund the cost of all rebates and surcharge refunds associated  
24 with the program.

25 (2) Fund all administrative costs associated with the program.

26 (3) Provide for a reserve within the program equal to  
27 approximately 15 percent of estimated rebates to ensure the  
28 account, to the extent possible, will have a positive balance at the  
29 end of each fiscal year.

30 (b) If the department determines that the amount of the reserve  
31 specified in paragraph (3) of subdivision (a) is either excessive or  
32 inadequate at the 15-percent level to meet the requirements of  
33 paragraphs (1) and (2) of subdivision (a), it may direct the state  
34 board to reduce or increase the size of the reserve in a manner to  
35 be determined by the state board.

36 (c) Once the schedule of rebates and surcharges are set for  
37 vehicles in a specified model year, the schedule may be adjusted  
38 no more than once per model year to meet the requirements of this  
39 section. Any adjustments pursuant to this section shall become  
40 operative on the first day of the first month that commences at

1 least 90 days after the state board formally adopts the adjustment  
2 to the schedule.

3 (d) The state board shall make annual or biennial adjustments  
4 to the schedule of surcharges and rebates, and the placement of  
5 the zero band, based on recent and anticipated changes in motor  
6 vehicle sales to ensure that the program continues to generate  
7 adequate revenues to meet the requirements of subdivision (a).

8 43306. (a) The schedule of rebates and surcharges, as adjusted  
9 annually or biennially, shall take effect no earlier than July 1 of  
10 each subsequent year, and be applied to new vehicles of the next  
11 model year accordingly. The state board may make adjustments  
12 biennially only if the state board finds that biennial adjustments  
13 meet both of the following criteria:

14 (1) The state board determines that the program will remain  
15 self-financing and is not in jeopardy of running a deficit.

16 (2) The state board determines that it is in the best interests of  
17 achieving the goals of the program to not make adjustments more  
18 often than once every two years.

19 (b) In the first year of the program, the state board, in  
20 consultation with the State Board of Equalization, may delay  
21 implementation of the rebate eligibility for up to 30 days after the  
22 surcharges initially take effect in order to ensure that adequate  
23 funds are available to fund the program’s rebates.

24 43307. The rebates and surcharges adopted by the state board  
25 shall be assigned to the price of the motor vehicle after applicable  
26 taxes have been added. Sales taxes shall not have an effect on the  
27 assigned rebate or surcharge.

28 43308. (a) Any California resident who purchases a new motor  
29 vehicle outside of the state that would otherwise have been subject  
30 to an emissions surcharge shall pay the surcharge when the resident  
31 returns to California with the vehicle within 90 days and registers  
32 or is required to register the motor vehicle.

33 (b) The surcharge shall be paid to the Department of Motor  
34 Vehicles at the time of the vehicle’s initial registration. The state  
35 board, the State Board of Equalization, and the Department of  
36 Motor Vehicles shall cooperate to develop procedures to implement  
37 this subdivision.

38 (c) Vehicles purchased outside of California shall not be eligible  
39 for a rebate.

1 43309. (a) Any California resident who leases from a dealer  
2 a new motor vehicle, otherwise subject to an emissions surcharge,  
3 for a term of one year or more, shall be assessed and shall pay the  
4 surcharge, but may amortize the surcharge over the life of the  
5 lease.

6 (b) Any California resident who leases from a dealer a new  
7 motor vehicle, otherwise subject to a rebate, for a term of one year  
8 or more shall qualify for and receive the rebate

9 43310. (a) The State Board of Equalization shall collect all  
10 surcharges and pay all rebates and refunds of surcharges pursuant  
11 to the Fee Collection Procedures Law (Part 30 (commencing with  
12 Section 55001) of Division 2 of the Revenue and Taxation Code).  
13 For purposes of this article, “feepayer” shall include a motor  
14 vehicle owner or dealer as applicable.

15 (b) For purposes of this article, refunds and surcharges shall be  
16 treated the same as refunds under Chapter 5 (commencing with  
17 Section 55221) of Part 30 of Division 2 of the Revenue and  
18 Taxation Code.

19 43311. (a) Not later than May 1, 2010, the state board shall  
20 make available to the public, including on the state board’s Internet  
21 Web site, the schedule of rebates and surcharges applicable in the  
22 fiscal year following their publication. The updated schedule shall  
23 be made available to the public at the time when it is updated.

24 (b) The state board shall disseminate information to dealers and  
25 consumers about the program, including, but not limited to, all of  
26 the following:

27 (1) The state board shall notify licensed dealers about relevant  
28 details of the program, including identifying, to the extent feasible,  
29 motor vehicles that are exempt from the program pursuant to  
30 Section 43312 and providing reasonable assistance to help motor  
31 vehicle dealers carry out the program.

32 (2) The state board may modify the air pollution label that is  
33 required to be displayed on new motor vehicles sold in the state  
34 pursuant to Section 43200.1, to include specific information on  
35 the applicable clean vehicle rebate or emissions surcharge imposed  
36 pursuant to this article.

37 (c) Dealers shall be required to clearly display the amount of  
38 the assigned rebate or surcharge for each new motor vehicle  
39 available for sale at the dealership.

1 43312. (a) Notwithstanding any other provision of this article,  
2 a new motor vehicle owner shall be refunded the surcharge that  
3 would otherwise be applicable to his or her motor vehicle if that  
4 motor vehicle is in any of the following categories:

5 (1) Emergency vehicles purchased by any local jurisdiction,  
6 county agency, or municipality.

7 (2) Motor vehicles purchased or leased by a microbusiness, as  
8 defined in Section 14837 of the Government Code, for identified  
9 work-related purposes to be determined by the state board in  
10 regulations adopted pursuant to this article.

11 (3) Paratransit and other motor vehicles designed or modified  
12 specifically for the purpose of transporting disabled persons.

13 (4) Motor vehicles purchased by the state for use in official state  
14 business, except that vehicles purchased or leased for Members  
15 of the Legislature shall be subject to the surcharge.

16 (5) Motor vehicles purchased or leased by very low income  
17 residents of the state, to be defined by the state board in regulations  
18 adopted pursuant to this article.

19 (b) Notwithstanding any other provision of this article, motor  
20 vehicles that meet both of the following conditions are exempt  
21 from this article and shall be identified by the state board pursuant  
22 to paragraph (1) of subdivision (b) of Section 43311:

23 (1) The motor vehicle's primary exhaust is identified by the  
24 Office of Environmental Health Hazard Assessment as a chemical  
25 that causes cancer.

26 (2) The motor vehicle is not subject to a state-mandated  
27 inspection and maintenance program.

28 (c) If a motor vehicle is not identified as an exempt vehicle by  
29 the state board pursuant to this section, but the purchaser of the  
30 vehicle believes that he or she qualifies for an exemption pursuant  
31 to this section, the purchaser shall pay the surcharge at the time of  
32 sale as required by the article, and shall submit an application to  
33 the state board certifying that the vehicle qualifies for the  
34 exemption. The state board shall notify the applicant within 60  
35 days of receipt of the application of its determination of whether  
36 an exemption will be granted. If the state board determines that  
37 the vehicle owner qualifies for an exemption from the surcharge  
38 pursuant to this section, the state board shall reimburse the  
39 applicant for the value of the surcharge from the account.

1 (d) The state board shall prepare and make available to dealers  
2 and the public, including on the state board's Internet Web site,  
3 an application for use by motor vehicle purchasers seeking  
4 reimbursement for a surcharge paid for an exempt vehicle pursuant  
5 to subdivision (c). The application shall provide the opportunity  
6 for the purchaser to demonstrate that a vehicle or vehicle purchaser,  
7 as applicable, qualifies for an exemption, specify the period of  
8 time within which the purchaser must apply for reimbursement,  
9 and provide reasonable means for the applicant to challenge the  
10 state board's finding if it determines that a vehicle does not qualify  
11 for an exemption.

12 43313. (a) The Clean Vehicle Incentive Account is hereby  
13 created to be administered by the state board in consultation with  
14 the State Board of Equalization. All emissions surcharges collected  
15 pursuant to this article shall be deposited into the account. Moneys  
16 in the account are continuously appropriated without regard to  
17 fiscal year to pay for all of the following:

18 (1) Clean vehicle rebates.

19 (2) Refunds of emissions surcharges as allowed for in this  
20 article.

21 (3) Reimbursing the State Board of Equalization for its  
22 administrative costs of carrying out its responsibilities pursuant to  
23 this article.

24 (4) Administrative costs of the state board for carrying out its  
25 responsibilities pursuant to this article.

26 (5) Reimbursing the Department of Motor Vehicles for costs  
27 incurred due to carrying out responsibilities pursuant to Section  
28 43308.

29 (b) For the initial implementation of this article, the Director of  
30 Finance is authorized to transfer, as a loan, up to nine hundred  
31 thousand dollars (\$900,000) from the Motor Vehicle Account in  
32 the State Transportation Fund into the account. This shall be repaid  
33 with interest from the account.

34 43314. The state board may regularly collect from motor  
35 vehicle manufacturers adequate data to calculate a vehicle's  
36 emissions of greenhouse gases to carry out the provisions of this  
37 article. This article does not require the board to conduct additional  
38 vehicle testing to make the determinations required by this article.

39 43315. In adopting regulations pursuant to subdivisions (a)  
40 and (b) of Section 43303, the state board shall determine a manner

1 to account for vehicles that run on an alternative fuel as defined  
2 in Section 43867. The state board shall consider upstream  
3 emissions, as defined in paragraph (2) of subdivision (h) of Section  
4 43200.1, in the development of these regulations.

5 43316. (a) This article does not conflict with or supersede any  
6 provision of Division 25.5 (commencing with Section 38500).  
7 This article does not limit the state board in implementing Division  
8 25.5 (commencing with Section 38500).

9 (b) Enactment of this article shall not be construed to, or be  
10 deemed in, conflict with Section 38597.

**ASSEMBLY BILL**

**No. 568**

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**Introduced by Assembly Member Karnette**  
(Coauthor: Senator Lowenthal)

February 21, 2007

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An act to add Article 4 (commencing with Section 6089) to Chapter 2 of Part 3 of Division 8 of the Harbors and Navigation Code, relating to harbors and ports.

LEGISLATIVE COUNSEL'S DIGEST

AB 568, as introduced, Karnette. Port Community Advisory Committee.

Under existing law, a county or portion thereof, a city or portion thereof, or more than one city with or without a portion of the unincorporated territory of a county, the exterior boundary of which includes a harbor, may be formed into a harbor district for the improvement or development of the harbor. A district is governed by a board of harbor commissioners.

This bill would require a board of harbor commissioners, by January 1, 2009, to establish a port community advisory committee to respond to specified actions and impacts on harbor area communities. The committee would be composed of members from various community and other organizations.

The bill would set forth the duties of the committee. The bill would require a board of harbor commissioners to annually allocate funds from its general budget to support the committee, and to provide office space and office services. By creating a new duty for a board of harbor commissioners, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) There are numerous ports in the State of California that  
4 currently conduct several billions of dollars in annual domestic  
5 and international business and whose sizes have reached thousands  
6 of acres. Most ports border residential communities, civic centers,  
7 commercial business districts, public transportation corridors,  
8 public beaches, public parks, protected wetlands, or wildlife  
9 preserves.

10 (b) Ports and their business activities cause significant and  
11 disproportional environmental, public health, traffic congestion,  
12 economic, and public safety impacts on bordering harbor  
13 communities and neighboring cities.

14 (c) In 2001, the Port of Los Angeles Board of Harbor  
15 Commissioners, supported by the Mayor of the City of Los  
16 Angeles, voted to create the first port community advisory  
17 committee in California.

18 (d) There are currently over 25 voting members representing  
19 25 organizations on the Port of Los Angeles Community Advisory  
20 Committee and nine subcommittees. The committee is composed  
21 of 10 ex officio members and three ad hoc members. Ex officio  
22 members include the Mayor of Los Angeles, a city council member,  
23 a harbor planning commission member, a county supervisor,  
24 Assembly Members, Senate Members, and congressional members.  
25 Ad hoc members include representatives of the South Coast Air  
26 Quality Management District, the State Air Resources Board, and  
27 the California Environmental Protection Agency.

28 (e) Harbor communities in the Port of Los Angeles, Port of  
29 Long Beach, Port of Oakland, Port of San Francisco, and Port of

1 San Diego have expressed their desire to establish a state law for  
2 local port community advisory committees.

3 SEC. 2. Article 4 (commencing with Section 6089) is added  
4 to Chapter 2 of Part 3 of Division 8 of the Harbors and Navigation  
5 Code, to read:

6

7

Article 4. Port Community Advisory Committee

8

9 6089. By January 1, 2009, a board shall establish a community  
10 advisory committee. For purposes of this article, "committee"  
11 means community advisory committee.

12 6089.1. (a) A committee shall be composed of members from  
13 community organizations, neighborhood councils, residential  
14 groups, senior citizen organizations, public health organizations,  
15 environmental organizations, environmental justice organizations,  
16 academic schools, religious groups, sports recreational teams, and  
17 labor organizations who petition to be members.

18 (b) Each organization shall have been in existence for a  
19 minimum of one year and may elect one voting representative and  
20 one alternate to the committee. If no member of an organization,  
21 as described in subdivision (a), petitions to be a member of the  
22 committee, then that organization need not be represented.

23 (c) Ex officio members or ad hoc members may include elected  
24 officials and designees of governmental agencies.

25 6089.2. A committee shall elect officers from the membership  
26 who will chair and officiate at the monthly meetings, and organize  
27 the committee's activities.

28 6089.3. A committee may establish subcommittees, special  
29 task forces, or sponsor special events, as may be necessary, to  
30 support its activities and purposes.

31 6089.4. A committee shall do all of the following:

32 (a) Provide an open public forum for discussion of port project  
33 proposals, reports, and actions, and of business activity impacts  
34 on harbor area communities, and shall make recommendations to  
35 the board.

36 (b) Assess the environmental, public health, economic, and  
37 public safety impacts of city, county, regional, state, federal, and  
38 international governmental agencies' rules, regulations, laws,  
39 international treaties, and bond measures on California harbor and  
40 port communities, and make recommendations to the board.

1 (c) Review past, present, and future environmental impact  
2 reports or statements, and environmental assessment documents  
3 in an open public forum in order to discuss community concerns,  
4 document inadequacies, project alternatives, and make mitigation  
5 recommendations to the board in accordance with federal and state  
6 law.

7 (d) Review current and developing alternative technologies that  
8 would benefit a port’s business activities and help mitigate any  
9 environmental, public health, economic, or public safety impacts,  
10 and make recommendations to the board.

11 (e) Prepare an annual report of the committee’s activities and  
12 accomplishments, and provide to the public a current membership  
13 list and status of participation.

14 6089.5. The board and board staff shall respond to the  
15 committee’s recommendations, requests, and inquiries within 90  
16 days of the submission or request. Recommendations, answers, or  
17 actions requiring more than 90 days shall require the board or  
18 board staff to submit a date for response, action, delivery,  
19 completion, or a timeline for response, action, delivery, or  
20 completion.

21 6089.6. The committee shall convene a public meeting a  
22 minimum of once each month. Notice of a meeting shall be  
23 provided 30 days in advance to all members, unless a 14 day public  
24 notice is given of the cancellation of the scheduled meeting. All  
25 public meeting notices, committee minutes, committee reports,  
26 and submitted port documentation shall be made available to the  
27 public a minimum of 30 days in advance of a public meeting on  
28 the official port Web site and at the committee office.

29 6089.7. The board shall allocate funds from its general budget  
30 to support the committee. Funds may be used to hire staff and an  
31 environmental justice program coordinator, and support the  
32 committee’s activities.

33 6089.8. The board shall provide office space, meeting space,  
34 telephone services, document duplication services, technical  
35 assistance, and general support to the committee. The committee  
36 shall sponsor conferences, conventions, training opportunities,  
37 public hearings, or meetings for the port regarding goods  
38 movement, economic development, and environmental and public  
39 health issues.

1     SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 a local agency or school district has the authority to levy service  
4 charges, fees, or assessments sufficient to pay for the program or  
5 level of service mandated by this act, within the meaning of Section  
6 17556 of the Government Code.

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**ASSEMBLY BILL**

**No. 575**

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**Introduced by Assembly Member Arambula**

February 21, 2007

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An act to add Section 8879.24 to the Government Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as introduced, Arambula. The Highway Safety Traffic Reduction, Air Quality, and Port Security Fund of 2006: emission reductions.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, was approved by the voters as Proposition 1B at the November 7, 2006, statewide general election and authorizes the issuance of \$19.925 billion of state general obligation bonds for specified purposes. The act requires that of the proceeds of the bonds issued and sold \$1,000,000,000 be made available upon appropriation by the Legislature to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors.

This bill would require that these funds be appropriated with the highest priority given to projects and agencies in severe nonattainment air districts. The bill would specify that the South Coast Air Quality Management District and the San Joaquin Valley Unified Air Pollution Control District each receive no less than \$300,000,000 of the funding available under the act.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8879.24 is added to the Government  
2 Code, to read:  
3 8879.24. Funds available pursuant to paragraph (2) of  
4 subdivision (c) of Section 8879.23 shall be appropriated with the  
5 highest priority given to projects and agencies in severe  
6 nonattainment air districts. The South Coast Air Quality  
7 Management District and the San Joaquin Valley Unified Air  
8 Pollution Control District shall each receive no less than three  
9 hundred million dollars (\$300,000,000) of the funding available.

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**ASSEMBLY BILL**

**No. 616**

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**Introduced by Assembly Member Jones**

February 21, 2007

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An act to add Section 44012.5 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 616, as introduced, Jones. Smog check: annual inspection.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The smog check program provides for the inspection of a motor vehicle, among in other circumstances, upon its registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biannually. The department is required to charge a fee to a smog check station for each motor vehicle inspection, as provided. Violations of the smog check constitute a criminal violation of law.

Existing law creates the High Polluter Repair or Removal Account, and makes available, upon appropriation by the Legislature, all money in the account to the State Air Resources Board and the department to establish and implement a program for the repair or replacement of high polluting motor vehicles.

This bill would require the department to incorporate annual inspection of motor vehicles 15 or greater model years old into the motor vehicle inspection and maintenance program by July 1, 2008, and would require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account. Because violations of

the smog check program are a crime, the bill would impose a state-mandated local program.

The bill would exempt all motor vehicles not subject to annual inspection, and would require the department to develop a methodology to exempt vehicles or classes of vehicles likely to pass annual inspection.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 44012.5 is added to the Health and Safety  
2 Code, to read:

3 44012.5. (a) The department shall incorporate annual  
4 inspection of motor vehicles 15 or greater model years old into  
5 the motor vehicle inspection and maintenance program by July 1,  
6 2008.

7 (b) All funds generated through additional inspection fees shall  
8 be deposited into the High Polluter Repair or Removal Account  
9 created by Section 44091.

10 (c) (1) All motor vehicles not subject to biannual inspection  
11 shall also be exempt from annual inspection.

12 (2) The department shall develop a methodology to exempt  
13 vehicles or classes of vehicles likely to pass annual inspection.

14 SEC. 2. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.

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**ASSEMBLY BILL**

**No. 846**

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**Introduced by Assembly Member Blakeslee**  
**(Coauthor: Assembly Member Karnette)**  
(Coauthor: Senator Maldonado)

February 22, 2007

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An act to amend and repeal Section 6385 of, to add Section 60510 to, and to add and repeal Sections 6357.7, 6357.8 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 846, as introduced, Blakeslee. Sales and use taxes: exemptions: Clean Marine Fuels Tax Incentive Act.

(1) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax.

This bill would exempt, until specified State Board of Equalization determinations occur or specified federal actions occur, from those state taxes the gross receipts derived from the sale in this state of, and the storage, use, or other consumption in this state of, low-sulfur fuel products for use in a vessel's auxiliary or main engine sold to a water common carrier for use in California's territorial or internal waters, as provided.

(2) The Sales and Use tax law exempts, until 2014, the gross receipts from the sale of fuel and petroleum products to a water common carrier for immediate shipment outside this state for consumption in the conduct of its business as a common carrier after the first out-of-state destination, if specified conditions are met.

This bill would instead provide that the exemption is repealed when a federal exemption for similar sales to vessel and aircraft is repealed, and specified State Board of Equalization actions are taken, upon any notification of the repeal of the federal exemption.

(3) The Diesel Fuel Tax Law imposes a tax, with specified exemptions, at specified rates, upon the specified removal, entry, sale, delivery, and specified use of diesel fuel, as provided, for each gallon of fuel subject to the tax. Existing law provides for certain refunds of that tax if specified criteria are met and the diesel fuel was used for a specified purpose, including that the diesel fuel was used for purposes other than operating motor vehicles upon the public highways of the state.

This bill would provide that if a refund is claimed because the diesel fuel was used for purposes other than operating motor vehicles upon the public highways, the diesel fuel was used in a vessel, and the diesel fuel has a sulfur content greater than 5,000 parts per million, the refund shall be reduced by a specified amount, as provided.

(4) Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Clean Marine Fuels Tax Incentive Act.
- 3 SEC. 2. Section 6357.7 is added to the Revenue and Taxation
- 4 Code, to read:

1 6357.7. (a) There are exempted from the taxes imposed by  
2 this part, the gross receipts from the sale in this state of, and the  
3 storage, use, or other consumption in this state of, low-sulfur fuel  
4 products for use in a vessel's auxiliary engine, sold to a water  
5 common carrier inside this state for immediate consumption or  
6 shipment in the conduct of its business as a water common carrier  
7 in California's territorial or internal waters.

8 (b) To qualify for the exemption, the water common carrier  
9 shall furnish to the seller an exemption certificate, in the form  
10 prescribed by the board, stating the quantity of low-sulfur fuel  
11 products for use in a vessel's auxiliary engines claimed as exempt  
12 that are to be consumed within California's territorial or internal  
13 waters. The certificate shall bear the purchaser's valid seller's  
14 permit number or valid fuel exemption registration number.  
15 Acceptance in good faith of that certificate shall relieve the seller  
16 from liability for the sales tax exempted under this section.

17 (c) For purposes of this section:

18 (1) "Immediate consumption or shipment" means that the  
19 delivery of the low-sulfur fuel products for use in a vessel's  
20 auxiliary engine by the seller is directly into a vessel for  
21 consumption by that vessel while in California's territorial or  
22 internal waters, and is not used for storage by the purchaser or any  
23 third party.

24 (2) "Low-sulfur fuel products for use in a vessel's auxiliary  
25 engine," means any fuel, including heavy fuel oil, marine distillate  
26 fuels, marine gas oil, marine diesel oil, or any other diesel fuel,  
27 with a sulfur content of no greater than 0.05 percent, or 500 parts  
28 per million, that is purchased for use in the operation of an engine,  
29 on a vessel, that provides power for a use other than propulsion.

30 (3) "Territorial or internal waters" means waters within a  
31 seaward boundary three geographical miles into the Pacific Ocean  
32 measured from the mean low-water mark of the California coast,  
33 all interior navigable waterways, and the Monterey Bay, subject  
34 to definitions of the United Nations Convention on the Law of the  
35 Sea.

36 (4) "Water common carrier" has the same meaning as "common  
37 carrier" as set forth in Section 6385.

38 (d) (1) Any water common carrier claiming exemption under  
39 this section that is not required to hold a valid seller's permit, shall  
40 be required to register with the board and obtain a fuel exemption

1 registration number, and shall be required to file returns as the  
2 board may prescribe, either if the board notifies the carrier that  
3 returns must be filed or if the carrier is liable for taxes based upon  
4 consumption of fuel products erroneously claimed as exempt under  
5 this section.

6 (2) A water common carrier required to hold a fuel exemption  
7 registration number shall be subject to all applicable provisions of  
8 this part, Part 1.5 (commencing with Section 7200), and Part 1.6  
9 (commencing with Section 7251).

10 (3) Upon approval of the board, a water common carrier may  
11 utilize a single fuel exemption registration number for all  
12 exemptions claimed under this chapter.

13 (e) A water common carrier claiming an exemption under this  
14 section, upon request, shall make available to the board records,  
15 including, but not limited to, a copy of a log abstract, or a cargo  
16 manifest, documenting its consumption of low-sulfur fuel products  
17 for use in a vessel's auxiliary engine while in California's territorial  
18 and internal waters and the amount claimed as exempt. If the carrier  
19 fails to provide these records upon request, the board may revoke  
20 the carrier's fuel exemption registration number.

21 (f) The board may require any water common carrier claiming  
22 an exemption under this section and required to obtain a fuel  
23 exemption registration number, to place with it such security as  
24 the board may determine pursuant to Section 6701.

25 (g) Pursuant to this section, any use of the fuel products by the  
26 purchasing carrier, other than that incident to the delivery of the  
27 fuel products to the carrier and the immediate consumption or  
28 transportation of the fuel products by the carrier for use in the  
29 conduct of its business as a water common carrier, or a failure of  
30 the carrier to document its consumption of the fuel products in  
31 California's territorial or internal waters, shall subject the carrier  
32 to liability for payment of sales tax as if it were a retailer making  
33 a retail sale of the property at the time of that use or failure, and  
34 the sales price of the property to it shall be deemed to be the gross  
35 receipts from the retail sale.

36 (h) In the event the board finds that sales of low-sulfur fuel  
37 products for use in a vessel's auxiliary engine sold to water  
38 common carriers inside this state accounts for greater than 95  
39 percent of all sales of marine fuels to water common carriers for  
40 use in a vessel's auxiliary engine, this section is hereby repealed

1 six months from the date such finding is submitted to the  
2 Legislature and the Office of Administrative Law for publication  
3 in the state register.

4 SEC. 3. Section 6357.8 is added to the Revenue and Taxation  
5 Code, to read:

6 6357.8. (a) There are exempted from the taxes imposed by  
7 this part, the gross receipts from the sale in this state of, and the  
8 storage, use, or other consumption of, low-sulfur fuel products for  
9 use in a vessel's main engine, sold to a water common carrier for  
10 immediate consumption or shipment in the conduct of its business  
11 as a water common carrier until the first out-of-state destination  
12 or 500 nautical miles beyond California's territorial waters,  
13 whichever is less.

14 (b) To qualify for the exemption, the water common carrier  
15 shall furnish to the seller an exemption certificate, in the form  
16 prescribed by the board, stating the quantity of low-sulfur fuel  
17 products for use in a vessel's main engines claimed as exempt.  
18 The certificate shall bear the purchaser's valid seller's permit  
19 number or valid fuel exemption registration number. Acceptance  
20 in good faith of that certificate shall relieve the seller from liability  
21 for the sales tax exempted under this section.

22 (c) For purposes of this section:

23 (1) "Immediate consumption or shipment" means that the  
24 delivery of the low-sulfur fuel products for use in a vessel's main  
25 engine by the seller is directly into a vessel for consumption by  
26 that vessel alone until the first out-of-state destination or 500 miles  
27 beyond California's territorial waters and not used for storage by  
28 the purchaser or any third party.

29 (2) "First out-of-state destination" has the same meaning as set  
30 forth in Section 6385.

31 (3) "Low-sulfur fuel products for use in a vessel's main engine"  
32 means any fuel, including heavy fuel oil, marine distillate fuels,  
33 marine gas oil, marine diesel oil, or any other diesel fuel, with a  
34 sulfur content of no greater than 1.5 percent, or 15,000 parts per  
35 million, which is purchased for use in the operation of an engine,  
36 on a vessel, that provides power for propulsion.

37 (4) "Territorial waters" means waters within a seaward boundary  
38 three geographical miles into the Pacific Ocean measured from  
39 the mean low-water mark of the California coast, and the Monterey

1 Bay, subject to definitions of the United Nations Convention on  
2 the Law of the Sea.

3 (5) “Water common carrier” has the same meaning as “common  
4 carrier” as set forth in Section 6385.

5 (d) (1) Any water common carrier claiming exemption under  
6 this section that is not required to hold a valid seller’s permit, shall  
7 be required to register with the board and obtain a fuel exemption  
8 registration number, and shall be required to file returns as the  
9 board may prescribe, either if the board notifies the carrier that  
10 returns must be filed or if the carrier is liable for taxes based upon  
11 consumption of fuel products erroneously claimed as exempt under  
12 this section.

13 (2) A water common carrier required to hold a fuel exemption  
14 registration number shall be subject to all applicable provisions of  
15 this part, Part 1.5 (commencing with Section 7200), and Part 1.6  
16 (commencing with Section 7251).

17 (3) Upon approval of the board, a water common carrier may  
18 utilize a single fuel exemption registration number for all  
19 exemptions claimed under this chapter.

20 (e) A water common carrier claiming an exemption under this  
21 section upon request, shall make available to the board records,  
22 including, but not limited to, a copy of a log abstract, or a cargo  
23 manifest, documenting its consumption of low-sulfur fuel products  
24 for use in a vessel’s auxiliary engine while in California’s territorial  
25 and internal waters and the amount claimed as exempt. If the carrier  
26 fails to provide these records upon request, the board may revoke  
27 the carrier’s fuel exemption registration number.

28 (f) The board may require any water common carrier claiming  
29 an exemption under this section and required to obtain a fuel  
30 exemption registration number, to place with it such security as  
31 the board may determine pursuant to Section 6701.

32 (g) Pursuant to this section, any use of the fuel products by the  
33 purchasing carrier, other than that incident to the delivery of the  
34 fuel products to the carrier and the immediate consumption or  
35 transportation of the fuel products by the carrier for use in the  
36 conduct of its business as a water common carrier, or a failure of  
37 the carrier to document its consumption of the fuel products in  
38 California’s territorial or internal waters, shall subject the carrier  
39 to liability for payment of sales tax as if it were a retailer making  
40 a retail sale of the property at the time of that use or failure, and

1 the sales price of the property to it shall be deemed to be the gross  
2 receipts from the retail sale.

3 (h) In the event the United States Environmental Protection  
4 Agency establishes a Sulfur Emission Control Area under the  
5 provisions of Annex VI of the International Convention for the  
6 Prevention of Pollution from Ships, 1973, as amended at London  
7 in February 1978, provided in Section 1309 of Title 19 of the  
8 United States Code, or otherwise defines and sets standards for  
9 the regulation for the prevention of sulfur emissions from ships  
10 regardless of their country of origin, relating to California's  
11 territorial waters, this section is hereby repealed six months from  
12 the date the board, upon any notification of this action, submits  
13 this information to the Legislature and the Office of Administrative  
14 law for publication in the state register.

15 SEC. 4. Section 6385 of the Revenue and Taxation Code, as  
16 added by Section 3 of Chapter 712 of the Statutes of 2003, is  
17 amended to read:

18 6385. (a) There are exempted from the computation of the  
19 amount of the sales tax the gross receipts from the sale of tangible  
20 personal property, other than fuel and petroleum products, to a  
21 common carrier, shipped by the seller via the purchasing carrier's  
22 facilities under a bill of lading whether the freight is paid in  
23 advance, or the shipment is made freight charges collect, to a point  
24 outside this state and the property is actually transported to the  
25 out-of-state destination for use by the carrier in the conduct of its  
26 business as a common carrier.

27 (b) There are exempted from the computation of the amount of  
28 the sales tax the gross receipts from the sale of tangible personal  
29 property, other than aircraft fuel and petroleum products, purchased  
30 by a foreign air carrier and transported by the foreign air carrier's  
31 facilities to a foreign destination for use by the air carrier in the  
32 conduct of its business as a common carrier by air of persons or  
33 property. To qualify for this exemption, the foreign air carrier shall  
34 furnish to the seller a certificate in writing that the property shall  
35 be transported and used in the manner required in this subdivision.  
36 The certificate shall be substantially in the form prescribed by the  
37 board. A seller is not liable for the sales tax if the seller accepts  
38 the certificate in good faith. If the seller does not have the  
39 certificate at the time the board requests the seller to submit the  
40 certificate to the board, the seller shall be given a reasonable time

1 to request the foreign air carrier to provide the seller with the  
2 certificate. The foreign air carrier shall maintain records in this  
3 state, such as a copy of a bill of lading, an air waybill, or cargo  
4 manifest, documenting its transportation of the tangible personal  
5 property to a foreign destination.

6 (c) There are exempted from the computation of the amount of  
7 the sales tax the gross receipts from the sale of fuel and petroleum  
8 products to a water common carrier, for immediate shipment  
9 outside this state for consumption in the conduct of its business as  
10 a common carrier after the first out-of-state destination. To qualify  
11 for the exemption the common carrier shall furnish to the seller  
12 an exemption certificate in writing stating the quantity of fuel and  
13 petroleum products claimed as exempt which is to be consumed  
14 after reaching the first out-of-state destination. That certificate  
15 shall bear the purchaser's valid seller's permit number or valid  
16 fuel exemption registration number and shall be substantially in  
17 the form prescribed by the board. Acceptance in good faith of that  
18 certificate shall relieve the seller from liability for the sales tax.

19 (d) "First out-of-state destination," as used in this section, means  
20 the first point reached outside this state by a common carrier in  
21 the conduct of its business as a common carrier at which cargo or  
22 passengers are loaded or discharged, cargo containers are added  
23 or removed, fuel is bunkered, or docking fees are charged. "First  
24 out-of-state destination," as used in this section, also includes the  
25 entry point of the Panama Canal when the carrier is only transiting  
26 the canal in the conduct of its business as a common carrier.

27 (e) "Common carrier," as used in this section, with respect to  
28 water transportation, shall be deemed to include any vessel  
29 engaged, for compensation, in transporting persons or property in  
30 interstate or foreign commerce.

31 (f) "Foreign air carrier," as used in this section, means a foreign  
32 air carrier as defined in Section 40102 of Title 49 of the United  
33 States Code.

34 (g) "Immediate shipment," as used in this section, means that  
35 the delivery of the fuel and petroleum products by the seller is  
36 directly into a ship for transportation outside this state and not for  
37 storage by the purchaser or any third party.

38 (h) Any common carrier claiming exemption under subdivision  
39 (c) ~~who~~ that is not required to hold a valid seller's permit shall be  
40 required to register with the board and obtain a fuel exemption

1 registration number and shall be required to file returns as the  
2 board may prescribe if either the board notifies the carrier that  
3 returns must be filed or the carrier is liable for taxes based upon  
4 consumption of fuel erroneously claimed as exempt under this  
5 section. A common carrier required to hold a fuel exemption  
6 registration number shall be subject to all applicable provisions of  
7 this part, Part 1.5 (commencing with Section 7200), and Part 1.6  
8 (commencing with Section 7251).

9 (i) A common carrier claiming an exemption under subdivision  
10 (c), upon request, shall make available to the board records,  
11 including, but not limited to, a copy of a log abstract or a cargo  
12 manifest, documenting its transportation of the fuel or petroleum  
13 product to an out-of-state destination and the amount claimed as  
14 exempt. If the carrier fails to provide these records upon request,  
15 the board may revoke the carrier's fuel exemption registration  
16 number.

17 (j) The board may require any carrier claiming an exemption  
18 under this section and required to obtain a fuel exemption  
19 registration number to place with it that security as the board may  
20 determine pursuant to Section 6701.

21 (k) Pursuant to subdivisions (a), (b), and (c), any use of the  
22 property by the purchasing carrier, other than that incident to the  
23 delivery of the property to the carrier and the transportation of the  
24 property by the carrier to the first out-of-state destination and  
25 subsequent use in the conduct of its business as a common carrier,  
26 or a failure of the carrier to document its transporting the property  
27 to the first out-of-state destination, shall subject the carrier to  
28 liability for payment of sales tax as if it were a retailer making a  
29 retail sale of the property at the time of that use or failure, and the  
30 sales price of the property to it shall be deemed to be the gross  
31 receipts from the retail sale.

32 (l) On December 31, 2005, the Legislative Analyst's Office  
33 (LAO) shall submit a report to the Governor and the Legislature  
34 that evaluates the economic impact of the partial sales tax  
35 exemption regarding bunker fuel.

36 ~~(m) This section shall remain in effect only until January 1,~~  
37 ~~2014, and as of that date is repealed.~~

38 *(m) In the event the federal exemption provided by Section 1309*  
39 *of Title 19 of the United States Code, relating to supplies for*  
40 *certain vessels and aircraft, is repealed, this section is repealed*

1 *six months from the date the board, upon any notification of this*  
2 *action, submits this information to the Legislature and the Office*  
3 *of Administrative Law for publication in the state register.*

4 SEC. 5. Section 6385 of the Revenue and Taxation Code, as  
5 added by Section 4 of Chapter 712 of the Statutes of 2003, is  
6 repealed.

7 ~~6385.—(a) There are exempted from the computation of the~~  
8 ~~amount of the sales tax the gross receipts from the sale of tangible~~  
9 ~~personal property, other than fuel and petroleum products, to a~~  
10 ~~common carrier, shipped by the seller via the purchasing carrier's~~  
11 ~~facilities under a bill of lading whether the freight is paid in~~  
12 ~~advance, or the shipment is made freight charges collect, to a point~~  
13 ~~outside this state and the property is actually transported to the~~  
14 ~~out-of-state destination for use by the carrier in the conduct of its~~  
15 ~~business as a common carrier.~~

16 ~~(b) There are exempted from the computation of the amount of~~  
17 ~~the sales tax the gross receipts from the sale of tangible personal~~  
18 ~~property, other than aircraft fuel and petroleum products, purchased~~  
19 ~~by a foreign air carrier and transported by the foreign air carrier's~~  
20 ~~facilities to a foreign destination for use by the air carrier in the~~  
21 ~~conduct of its business as a common carrier by air of persons or~~  
22 ~~property. To qualify for this exemption, the foreign air carrier shall~~  
23 ~~furnish to the seller a certificate in writing that the property shall~~  
24 ~~be transported and used in the manner required in this subdivision.~~  
25 ~~The certificate shall be substantially in the form prescribed by the~~  
26 ~~board. A seller is not liable for the sales tax if the seller accepts~~  
27 ~~the certificate in good faith. If the seller does not have the~~  
28 ~~certificate at the time the board requests the seller to submit the~~  
29 ~~certificate to the board, the seller shall be given a reasonable time~~  
30 ~~to request the foreign air carrier to provide the seller with the~~  
31 ~~certificate. The foreign air carrier shall maintain records in this~~  
32 ~~state, such as a copy of a bill of lading, an air waybill, or cargo~~  
33 ~~manifest, documenting its transportation of the tangible personal~~  
34 ~~property to a foreign destination.~~

35 ~~(c) "Common carrier," as used in this section, with respect to~~  
36 ~~water transportation, shall be deemed to include any vessel~~  
37 ~~engaged, for compensation, in transporting persons or property in~~  
38 ~~interstate or foreign commerce.~~

1 (d) ~~“Foreign air carrier,” as used in this section, means a foreign~~  
2 ~~air carrier as defined in Section 40102 of Title 49 of the United~~  
3 ~~States Code.~~

4 (e) ~~Pursuant to subdivisions (a) and (b), any use of the property~~  
5 ~~by the purchasing carrier, other than that incident to the delivery~~  
6 ~~of the property to the carrier and the transportation of the property~~  
7 ~~by the carrier to an out-of-state destination and subsequent use in~~  
8 ~~the conduct of its business as a common carrier, or a failure of the~~  
9 ~~carrier to document its transporting the property to an out-of-state~~  
10 ~~destination, shall subject the carrier to liability for payment of sales~~  
11 ~~tax as if it were a retailer making a retail sale of the property at~~  
12 ~~the time of that use or failure, and the sales price of the property~~  
13 ~~to it shall be deemed to be the gross receipts from the retail sale.~~

14 (f) ~~This section shall become operative on January 1, 2014.~~

15 SEC. 6. Section 60510 is added to the Revenue and Taxation  
16 Code, to read:

17 60510. (a) Any claim for a refund made pursuant to Section  
18 60501 where the diesel fuel was sold and delivered directly by an  
19 ultimate vendor to a vessel operated by an ultimate purchaser, the  
20 diesel fuel sold has a sulfur content of greater than 0.5 percent, or  
21 5,000 parts per million, and the diesel fuel was used for purposes  
22 other than operating motor vehicles upon the public highways of  
23 this state, shall be reduced by an amount equal to:

24 (1) Twenty-five percent of the claim, for all claims made after  
25 the effective date of this section and prior to January 1, 2010.

26 (2) Fifty percent of the claim, for all claims made on or after  
27 January 1, 2010, and prior to January 1, 2012.

28 (3) Seventy-five percent of the claim, for all claims made on or  
29 after January 1, 2012.

30 (b) For purposes of this section, “vessel” has the same meaning  
31 as set forth in Section 6273.

32 (c) In the event that the board makes a finding pursuant to  
33 subdivision (h) of Section 6357.7, this section is hereby repealed  
34 six months from the date such finding is submitted to the  
35 Legislature and the Office of Administrative Law for publication  
36 in the state register.

37 SEC. 7. Notwithstanding Section 2230 of the Revenue and  
38 Taxation Code, no appropriation is made by this act and the state  
39 shall not reimburse any local agency for any sales and use tax  
40 revenues lost by it under this act.

1 SEC. 8. This act provides for a tax levy within the meaning of  
2 Article IV of the Constitution and shall go into immediate effect.  
3 However, the provisions of this act shall become operative on the  
4 first day of the first calendar quarter commencing more than 90  
5 days after the effective date of this act.

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**ASSEMBLY BILL**

**No. 934**

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**Introduced by Assembly Member Duvall**  
(Coauthor: Senator Runner)

February 22, 2007

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An act to amend Sections 39666, 43013, and 43018 of, and to add Section 39666.5 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 934, as introduced, Duvall. State Air Resources Board: air districts: mobile nonvehicular regulations.

(1) Existing law requires the State Air Resources Board to adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources, and requires local air districts to implement and enforce the airborne toxic control measures or propose regulations enacting airborne toxic control measures on nonvehicular sources within their jurisdiction, and authorizes districts to adopt more stringent airborne toxic control measures than those adopted by the state board.

This bill would modify these provisions to authorize districts to adopt airborne toxic control measures only for nonvehicular stationary sources.

(2) Existing law requires the state board to adopt standards and regulations for motor vehicles and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

This bill would provide that the state board has exclusive jurisdiction to adopt these standards.

The bill would also provide that an existing provision of law does not authorize districts to share concurrent jurisdiction with the state board over mobile nonvehicular sources.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. It is the intent of the Legislature to further clarify
- 2 its standing intent to encourage statewide, uniform implementation
- 3 of regulations regarding mobile nonvehicular sources of emissions
- 4 when consistent with federal law, and further its standing intent
- 5 to discourage district-by-district adoption of different regulations.
- 6 SEC. 2. Section 39666 of the Health and Safety Code is
- 7 amended to read:
- 8 39666. (a) Following a noticed public hearing, the state board
- 9 shall adopt airborne toxic control measures to reduce emissions
- 10 of toxic air contaminants from nonvehicular *stationary* sources.
- 11 (b) For toxic air contaminants for which the state board has
- 12 determined, pursuant to Section 39662, that there is a threshold
- 13 exposure level below which no significant adverse health effects
- 14 are anticipated, the airborne toxic control measure shall be
- 15 designed, in consideration of the factors specified in subdivision
- 16 (b) of Section 39665, to reduce emissions sufficiently so that the
- 17 source will not result in, or contribute to, ambient levels at or in
- 18 excess of the level which may cause or contribute to adverse health
- 19 effects as that level is estimated pursuant to subdivision (c) of
- 20 Section 39660.
- 21 (c) For toxic air contaminants for which the state board has not
- 22 specified a threshold exposure level pursuant to Section 39662,
- 23 the airborne toxic control measure shall be designed, in
- 24 consideration of the factors specified in subdivision (b) of Section
- 25 39665, to reduce emissions to the lowest level achievable through
- 26 application of best available control technology or a more effective
- 27 control method, unless the state board or a district board
- 28 determines, based on an assessment of risk, that an alternative
- 29 level of emission reduction is adequate or necessary to prevent an
- 30 endangerment of public health.
- 31 (d) Not later than 120 days after the adoption or implementation
- 32 by the state board of an airborne toxic control measure pursuant

1 to this section or Section 39658, the districts shall implement and  
2 enforce the airborne toxic control measure or shall propose  
3 regulations enacting airborne toxic control measures on  
4 nonvehicular *stationary* sources within their jurisdiction which  
5 meet the requirements of subdivisions (b), (c), and (e), except that  
6 a district may, at its option, and after considering the factors  
7 specified in subdivision (b) of Section 39665, adopt and enforce  
8 equally effective or more stringent airborne toxic control measures  
9 than the airborne toxic control measures adopted by the state board.  
10 A district shall adopt rules and regulations implementing airborne  
11 toxic control measures on nonvehicular *stationary* sources within  
12 its jurisdiction in conformance with subdivisions (b), (c), and (e),  
13 not later than six months following the adoption of airborne toxic  
14 control measures by the state board.

15 (e) District new source review rules and regulations shall require  
16 new or modified sources to control emissions of toxic air  
17 contaminants consistent with subdivisions (b), (c), and (d) and  
18 Article 2.5 (commencing with Section 39656).

19 (f) Where an airborne toxic control measure requires the use of  
20 a specified method or methods to reduce, avoid, or eliminate the  
21 emissions of a toxic air contaminant, a source may submit to the  
22 district an alternative method or methods that will achieve an equal  
23 or greater amount of reduction in emissions of, and risk associated  
24 with, that toxic air contaminant. The district shall approve the  
25 proposed alternative method or methods if the operator of the  
26 source demonstrates that the method is, or the methods are,  
27 enforceable, that equal or greater amounts of reduction in emissions  
28 and risk will be achieved, and that the reductions will be achieved  
29 within the time period required by the applicable airborne toxic  
30 control measure. The district shall revoke approval of the  
31 alternative method or methods if the source fails to adequately  
32 implement the approved alternative method or methods or if  
33 subsequent monitoring demonstrates that the alternative method  
34 or methods do not reduce emissions and risk as required. The  
35 district shall notify the state board of any action it proposes to take  
36 pursuant to this subdivision. ~~This subdivision~~

37 (g) *This section* is operative only to the extent it is consistent  
38 with ~~the federal-act law~~.

39 SEC. 3. Section 39666.5 is added to the Health and Safety  
40 Code, to read:

1 39666.5. (a) Following a noticed public hearing, the state  
2 board shall adopt airborne toxic control measures to reduce  
3 emissions of toxic air contaminants from nonvehicular mobile  
4 sources.

5 (b) For toxic air contaminants for which the state board has  
6 determined, pursuant to Section 39662, that there is a threshold  
7 exposure level below which no significant adverse health effects  
8 are anticipated, the airborne toxic control measure shall be  
9 designed, in consideration of the factors specified in subdivision  
10 (b) of Section 39665, to reduce emissions sufficiently so that the  
11 source will not result in, or contribute to, ambient levels at or in  
12 excess of the level which may cause or contribute to adverse health  
13 effects as that level is estimated pursuant to subdivision (c) of  
14 Section 39660.

15 (c) For toxic air contaminants for which the state board has not  
16 specified a threshold exposure level pursuant to Section 39662,  
17 the airborne toxic control measure shall be designed, in  
18 consideration of the factors specified in subdivision (b) of Section  
19 39665, to reduce emissions to the lowest level achievable through  
20 application of best available control technology or a more effective  
21 control method, unless the state board determines, based on an  
22 assessment of risk, that an alternative level of emission reduction  
23 is adequate or necessary to prevent an endangerment of public  
24 health.

25 (d) Unless otherwise determined by the state board, the state  
26 board shall implement and enforce the airborne toxic control  
27 measure not later than 120 days after the adoption of an airborne  
28 toxic control measure pursuant to this section or Section 39658.

29 (e) Where an airborne toxic control measure requires the use of  
30 a specified method or methods to reduce, avoid, or eliminate the  
31 emissions of a toxic air contaminant, a source may submit to the  
32 state board an alternative method or methods that will achieve an  
33 equal or greater amount of reduction in emissions of, and risk  
34 associated with, that toxic air contaminant. The state board shall  
35 approve the proposed alternative method or methods if the operator  
36 of the source demonstrates that the method is, or the methods are,  
37 enforceable, that equal or greater amounts of reduction in emissions  
38 and risk will be achieved, and that the reductions will be achieved  
39 within the time period required by the applicable airborne toxic  
40 control measure. The state board shall revoke approval of the

1 alternative method or methods if the source fails to adequately  
2 implement the approved alternative method or methods or if  
3 subsequent monitoring demonstrates that the alternative method  
4 or methods do not reduce emissions and risk as required. The  
5 district shall notify the state board of any action it proposes to take  
6 pursuant to this subdivision.

7 (f) This section is operative only to the extent it is consistent  
8 with federal law.

9 SEC. 4. Section 43013 of the Health and Safety Code is  
10 amended to read:

11 43013. (a) The state board may adopt and implement motor  
12 vehicle emission standards, in-use performance standards, and  
13 motor vehicle fuel specifications for the control of air contaminants  
14 and sources of air pollution which the state board has found to be  
15 necessary, cost-effective, and technologically feasible, to carry  
16 out the purposes of this division, unless preempted by federal law.

17 (b) The state board shall, *and has exclusive authority to*,  
18 consistent with subdivision (a), adopt standards and regulations  
19 for light-duty and heavy-duty motor vehicles; medium-duty motor  
20 vehicles, as determined and specified by the state board; and  
21 off-road or nonvehicle engine categories, including, but not limited  
22 to, off-highway motorcycles, off-highway vehicles, construction  
23 equipment, farm equipment, utility engines, locomotives, and, to  
24 the extent permitted by federal law, marine vessels.

25 (c) Prior to adopting standards and regulations for farm  
26 equipment, the state board shall hold a public hearing and find and  
27 determine that the standards and regulations are necessary,  
28 cost-effective, and technologically feasible. The state board shall  
29 also consider the technological effects of emission control standards  
30 on the cost, fuel consumption, and performance characteristics of  
31 mobile farm equipment.

32 (d) Notwithstanding subdivision (b), the state board shall not  
33 adopt any standard or regulation affecting locomotives until the  
34 final study required under Section 5 of Chapter 1326 of the Statutes  
35 of 1987 has been completed and submitted to the Governor and  
36 Legislature.

37 (e) Prior to adopting or amending any standard or regulation  
38 relating to motor vehicle fuel specifications pursuant to this section,  
39 the state board shall, after consultation with public or private

1 entities that would be significantly impacted as described in  
2 paragraph (2) of subdivision (f), do both of the following:

3 (1) Determine the cost-effectiveness of the adoption or  
4 amendment of the standard or regulation. The cost-effectiveness  
5 shall be compared on an incremental basis with other mobile source  
6 control methods and options.

7 (2) Based on a preponderance of scientific and engineering data  
8 in the record, determine the technological feasibility of the adoption  
9 or amendment of the standard or regulation. That determination  
10 shall include, but is not limited to, the availability, effectiveness,  
11 reliability, and safety expected of the proposed technology in an  
12 application that is representative of the proposed use.

13 (f) Prior to adopting or amending any motor vehicle fuel  
14 specification pursuant to this section, the state board shall do both  
15 of the following:

16 (1) To the extent feasible, quantitatively document the  
17 significant impacts of the proposed standard or specification on  
18 affected segments of the state's economy. The economic analysis  
19 shall include, but is not limited to, the significant impacts of any  
20 change on motor vehicle fuel efficiency, the existing motor vehicle  
21 fuel distribution system, the competitive position of the affected  
22 segment relative to border states, and the cost to consumers.

23 (2) Consult with public or private entities that would be  
24 significantly impacted to identify those investigative or preventive  
25 actions that may be necessary to ensure consumer acceptance,  
26 product availability, acceptable performance, and equipment  
27 reliability. The significantly impacted parties shall include, but are  
28 not limited to, fuel manufacturers, fuel distributors, independent  
29 marketers, vehicle manufacturers, and fuel users.

30 (g) To the extent that there is any conflict between the  
31 information required to be prepared by the state board pursuant to  
32 subdivision (f) and information required to be prepared by the state  
33 board pursuant to Chapter 3.5 (commencing with Section 11340)  
34 of Part 1 of Division 3 of Title 2 of the Government Code, the  
35 requirements established under subdivision (f) shall prevail.

36 (h) It is the intent of the Legislature that the state board act as  
37 expeditiously as is feasible to reduce nitrogen oxide emissions  
38 from diesel vehicles, marine vessels, and other categories of  
39 vehicular and mobile sources which significantly contribute to air  
40 pollution problems.

1 (i) *The amendments of this section made at the 2007–08 Regular*  
2 *Session do not constitute a change in, but are declaratory of, the*  
3 *existing law.*

4 SEC. 5. Section 43018 of the Health and Safety Code is  
5 amended to read:

6 43018. (a) The state board shall endeavor to achieve the  
7 maximum degree of emission reduction possible from vehicular  
8 and other mobile sources in order to accomplish the attainment of  
9 the state standards at the earliest practicable date.

10 (b) Not later than January 1, 1992, the state board shall take  
11 whatever actions are necessary, cost-effective, and technologically  
12 feasible in order to achieve, not later than December 31, 2000, a  
13 reduction in the actual emissions of reactive organic gases of at  
14 least 55 percent, a reduction in emissions of oxides of nitrogen of  
15 at least 15 percent from motor vehicles. These reductions in  
16 emissions shall be calculated with respect to the 1987 baseline  
17 year. The state board also shall take action to achieve the maximum  
18 feasible reductions in particulates, carbon monoxide, and toxic air  
19 contaminants from vehicular sources.

20 (c) In carrying out this section, the state board shall adopt  
21 standards and regulations which will result in the most  
22 cost-effective combination of control measures on all classes of  
23 motor vehicles and motor vehicle fuel, including, but not limited  
24 to, all of the following:

25 (1) Reductions in motor vehicle exhaust and evaporative  
26 emissions.

27 (2) Reductions in emissions from in-use emissions from motor  
28 vehicles through improvements in emission system durability and  
29 performance.

30 (3) Requiring the purchase of low-emission vehicles by state  
31 fleet operators.

32 (4) Specification of vehicular fuel composition.

33 (d) In order to accomplish the purposes of this division, and to  
34 ensure timely approval of the district's plans for attainment of the  
35 state air quality standards by the state board, the state board shall  
36 adopt the following schedule for workshops and hearings to  
37 consider the adoption of the standards and regulations required  
38 pursuant to this section:

39 (1) Workshops on the adoption of vehicular fuel specifications  
40 for aromatic content, diesel fuel quality, light-duty vehicle exhaust

1 emission standards, and revisions to the standards for new vehicle  
2 certification and durability to reflect current driving conditions  
3 and useful vehicle life shall be held not later than March 31, 1989.  
4 Hearings of the state board to consider adoption of proposed  
5 regulations pursuant to this subdivision shall be held not later than  
6 November 15, 1989.

7 (2) Notwithstanding Section 43830, workshops on the adoption  
8 of regulations governing gasoline Reid vapor pressure, and  
9 standards for heavy-duty and medium-duty vehicle emissions,  
10 shall be held not later than January 31, 1990. Hearings of the state  
11 board to consider adoption of proposed regulations pursuant to  
12 this subdivision shall be held not later than November 15, 1990.

13 (3) Workshops on the adoption of regulations governing  
14 detergent content, emissions from off-highway vehicles, vehicle  
15 fuel composition, emissions from construction equipment and farm  
16 equipment, motorcycles, locomotives, utility engines, and to the  
17 extent permitted by federal law, marine vessels, shall be held not  
18 later than January 31, 1991. Hearings of the state board to consider  
19 adoption of proposed regulations pursuant to this subdivision shall  
20 be held not later than November 15, 1991.

21 (e) Prior to adopting standards and regulations pursuant to this  
22 section, the state board shall consider the effect of the standards  
23 and regulations on the economy of the state, including, but not  
24 limited to, motor vehicle fuel efficiency.

25 (f) *This section does not authorize districts to share concurrent*  
26 *jurisdiction with the state board over nonvehicular mobile sources.*

27 (f)—

28 (g) ~~The amendment~~ *amendments* of this section made at the  
29 ~~1989–90 and 2007–08 Regular Session of the Legislature does~~  
30 *Sessions do not constitute a change in, but-is are* declaratory of,  
31 the existing law.

**ASSEMBLY BILL**

**No. 1077**

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**Introduced by Assembly Members Lieber and DeSaulnier  
(Principal coauthor: Assembly Member Huffman)  
(Coauthor: Assembly Member Lieu)**

February 23, 2007

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An act to add Article 5.5 (commencing with Section 43850) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1077, as introduced, Lieber. State Air Resources Board: plug-in hybrid electric vehicles.

(1) Existing law grants to the State Air Resources Board primary authority for the control of air pollution from vehicular sources. Existing law authorizes the state board to adopt and implement motor vehicle emissions standards and motor vehicle specifications.

This bill would enact the California Plug-In Hybrid Electric Vehicle Leadership Act of 2007. The bill would establish a 19-member California Plug-In Hybrid Electric Vehicle Coordinating Council to meet and be an ongoing focal point for coordination and collaboration between entities and organizations working on plug-in hybrid electric vehicle-related activities, identify existing and potential barriers to the successful development and commercialization of plug-in hybrid vehicles, assess current and proposed activities related to plug-in hybrid vehicles, and describe the extent to which these will address identified barriers, recommend and prioritize additional work, activities, research, development and demonstration, and programs that will contribute to the resolution of identified barriers. The bill would make it the goal of

the council to have at a minimum 1,000,000 plug-in hybrid vehicles on California roads by 2015. The bill would require the council to consider, and recommend, certain financial and regulatory incentives to promote the manufacture and sale of plug-in hybrid vehicles. The bill would require the council to consider, and recommend, a multifuel approach. The bill would require the council to develop, and make recommendations on the implementation of, a public information and education program.

The bill would require the state board, on or before January 1, 2009, in conjunction with specified other entities, to develop certification testing protocols for emissions and fuel consumption for the different types of plug-in hybrid vehicles.

The bill would require the Department of General Services, on or before October 1, 2008, to identify the percentage or number of plug-in hybrid vehicles that could be reasonably added to the state vehicle fleet in the future, to streamline its procurement procedures for plug-in hybrid vehicles for state and local agencies, and to develop mechanisms and incentives to encourage local governments to identify the number and percentage of plug-in hybrid vehicles that could reasonably be added to local fleets, and to procure those vehicles.

The bill would require the Public Utilities Commission, on or before January 1, 2009, in conjunction with electrical and gas corporations, to develop and establish optional off-peak electrical rates for plug-in hybrid vehicles, or discounts in the cost of electric service for plug-in hybrid vehicles. The bill would require the commission to consider the establishment of utility testing and demonstration programs as it determines to be necessary to achieve specified objectives. The commission would also be required to consider the establishment of utility programs to provide certain hybrid-related information and assistance to utility customers.

The bill would authorize local publicly owned electric utilities to develop and establish specified utility programs involving plug-in hybrid vehicles.

(2) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program.

The bill would require the Energy Commission to award program funds to the council in accordance with that act to reimburse the council for costs the council incurs under the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Plug-in hybrid electric vehicles (PHEVs or plug-in hybrids)  
4 are a type of advanced gasoline/biofuel-electric hybrid vehicle that  
5 are being developed, demonstrated, and tested in California and  
6 elsewhere. Plug-in hybrids can achieve even greater environmental  
7 and fuel-saving benefits than conventional hybrids. Plug-in hybrid  
8 electric vehicle technology is rapidly developing and can be applied  
9 not only in light-duty vehicles, but in medium-duty and heavy-duty  
10 vehicles, and in nonroad applications.

11 (b) Plug-in hybrid light-duty vehicles have been demonstrated  
12 that achieve in excess of 100 miles per gallon of gasoline and can  
13 reduce gasoline use by 60 to 75 percent in comparison to today's  
14 typical new cars or sport-utility vehicles, and by 45 to 65 percent  
15 in comparison to today's best conventional hybrid vehicles.

16 (c) The transportation sector is more than 95 percent dependent  
17 upon a single fuel source, petroleum, and over 60 percent of our  
18 national petroleum consumption comes from foreign sources,  
19 making this nation extremely vulnerable to petroleum price and  
20 supply disruptions.

21 (d) California has adopted goals for increasing the use of  
22 nonpetroleum fuels, including electricity, biofuels, and hydrogen,  
23 to 20 percent of on-road fuel consumption by 2020, and 30 percent  
24 by 2030.

25 (e) Plug-in hybrids may save state consumers money by  
26 providing more fuel-efficient vehicles and reduced fuel cost by  
27 using electricity for vehicle propulsion, at an equivalent of less  
28 than one dollar (\$1) per gallon of gasoline, given current off-peak  
29 electricity prices.

30 (f) Plug-in hybrids may reduce emissions of greenhouse gases  
31 by 50 to 60 percent in comparison to today's typical new cars or  
32 sport-utility vehicles, and by 30 to 45 percent in comparison to

1 today's most efficient conventional hybrid vehicles, and therefore  
2 can provide significant help in achieving California's reduction  
3 targets for emissions of greenhouse gases.

4 (g) Plug-in hybrids may reduce criteria air pollutants by as much  
5 as 45 to 60 percent in comparison to today's new midsize cars or  
6 sport-utility vehicles, and as much as 35 to 50 percent in  
7 comparison to today's most efficient conventional hybrid vehicles.

8 (h) California has a significant potential for excess electricity  
9 generation capacity during overnight and off-peak periods,  
10 including renewable electricity such as wind power that is  
11 predominately generated at night, allowing millions of plug-in  
12 hybrids to charge during these periods when electricity prices are  
13 low, and with minimal adverse environmental impacts. Moreover,  
14 even under a worst-case peak-charging scenario, researchers at  
15 the University of California, Berkeley, estimate that one million  
16 compact plug-in hybrids on California roads would not significantly  
17 impact peak loads. Many more times this number of vehicles could  
18 be charged during off-peak periods without the need for new  
19 generation.

20 (i) California's electricity generation mix is already one of the  
21 cleanest in the nation, and the state has taken additional steps to  
22 make it even cleaner, including new requirements that 20 percent  
23 of all electricity generation come from renewable sources by 2010,  
24 and has enacted legislation requiring that all new generation  
25 sources have greenhouse gas emissions no greater than the level  
26 of a combined-cycle natural gas-fired power plant.

27 (j) Infrastructure is already in place for plug-in hybrids, which  
28 can be recharged using standard household electrical circuits and  
29 current, requiring no deployment of new refueling or recharging  
30 infrastructure.

31 (k) Plug-in hybrid vehicles could also use biofuels such as  
32 ethanol or biodiesel, helping achieve even greater fuel economy  
33 and diversity.

34 (l) The California Hydrogen Highway Blueprint Plan identified  
35 plug-in hybrid vehicles as a "bridging technology" to fuel cell  
36 vehicles, which can provide near-term environmental benefits to  
37 Californians, while at the same time reducing the cost of similar  
38 electric-drive components used in future fuel cell vehicles.

39 (m) The Governor, in Executive Order S-01-07, established a  
40 low-carbon fuel standard for transportation fuels with the goal of

1 reducing the carbon intensity of California’s transportation fuels  
2 by at least 10 percent by 2020. Plug-in hybrid vehicles can play a  
3 key role in meeting or exceeding this goal.

4 (n) In January 2007, President George W. Bush issued an  
5 executive order that, among other things, requires federal agencies  
6 to procure plug-in hybrid vehicles when they are commercially  
7 available.

8 (o) California needs new advanced vehicle technologies,  
9 including plug-in hybrid vehicles, in the near term, that produce  
10 even fewer emissions than today’s cleanest gasoline vehicles, and  
11 that use cleaner fuels, if we are to meet the state’s goals for  
12 reducing air pollution, greenhouse gases, and petroleum  
13 dependence.

14 (p) Plug-in hybrids also open the door for useful supply  
15 diversification between the liquid fuel and power generation  
16 sectors.

17 (q) This state can and should assist in the successful  
18 development and commercialization of plug-in hybrids in several  
19 important ways, in order to accelerate the benefits that these  
20 vehicles can provide to all our citizens, including emissions  
21 reduction, fuel security, and job creation in this state.

22 (r) It is the intent of the state to undertake a multifaceted effort  
23 to support the development and commercial introduction of plug-in  
24 hybrid electric vehicles.

25 SEC. 2. Article 5.5 (commencing with Section 43850) is added  
26 to Chapter 4 of Part 5 of Division 26 of the Health and Safety  
27 Code, to read:

28

29

Article 5.5. Plug-in Hybrid Electric Vehicles

30

31 43850. This article shall be known and may be cited as the  
32 California Plug-In Hybrid Electric Vehicle Leadership Act of 2007.

33 43851. As used in this article, the following terms have the  
34 following meanings:

35 (a) “Council” means the California Plug-In Hybrid Electric  
36 Vehicle Coordinating Council established in Section 43852.

37 (b) “Energy Commission” means the State Energy Resources  
38 Conservation and Development Commission.

39 (c) “Plug-in hybrid electric vehicle” or “plug-in hybrid vehicle”  
40 means a light-duty, medium-duty, or heavy-duty on-road or

1 nonroad vehicle that is propelled by an internal combustion engine  
2 or heat engine and an electric motor and energy storage system,  
3 using all of the following:

- 4 (1) Any combustible fuel.
- 5 (2) An onboard, rechargeable storage device used primarily to  
6 power transportation, not vehicle peripherals.
- 7 (3) A means of using an off-board source of electricity to operate  
8 the vehicle in intermittent or continuous all-electric mode.

9 43852. (a) The 19-member California Plug-In Hybrid Electric  
10 Vehicle Coordinating Council is hereby established, with  
11 membership as follows:

12 (1) A member of the Energy Commission, appointed by that  
13 commission, who shall act as a co-chair.

14 (2) A member of the state board, appointed by that state board,  
15 who shall act as a co-chair.

16 (3) A member of the Public Utilities Commission, appointed  
17 by that commission.

18 (4) A representative appointed by each of the following  
19 agencies:

20 (A) The California Environmental Protection Agency.

21 (B) The Business, Transportation and Housing Agency.

22 (C) The Department of General Services.

23 (5) A representative appointed by each of the following entities:

24 (A) The University of California.

25 (B) The Senate.

26 (C) The Assembly.

27 (D) The California Independent System Operator.

28 (6) A representative, appointed by the co-chairs of the council  
29 through a selection or nomination process to be developed jointly  
30 by the Energy Commission and the state board, from each of the  
31 following categories:

32 (A) Appropriate federal agencies and laboratories.

33 (B) Public and private research organizations.

34 (C) Automobile manufacturers.

35 (D) Component manufacturers.

36 (E) Air quality management districts.

37 (F) Local governments.

38 (G) Municipal and investor-owned utilities.

39 (H) Environmental and other nonprofit groups.

40 (I) Other stakeholders as determined by the co-chairs.

1 43853. The council shall do all of the following:

2 (a) Meet at least twice annually and be an ongoing focal point  
3 for coordination and collaboration between the many entities and  
4 organizations working on plug-in hybrid electric vehicle-related  
5 activities, both within California and outside of the state. The  
6 meetings of the council shall be subject to the Bagley-Keene Open  
7 Meeting Act (Article 9 (commencing with Section 11120) of  
8 Chapter 1 of Part 1 of Division 3 of the Government Code).

9 (b) Identify existing and potential barriers to the successful  
10 development and commercialization of plug-in hybrid vehicles.  
11 The council shall assess current and proposed activities, research,  
12 programs, and other activities related to plug-in hybrid vehicles,  
13 and describe the extent to which these will address identified  
14 barriers.

15 (c) Recommend and prioritize additional work, activities,  
16 research, development and demonstration, and programs that, in  
17 the determination of the council, will contribute to the resolution  
18 of identified barriers, with particular attention paid to those  
19 initiatives which are best suited to state and local agencies. For  
20 planning purposes, it shall be the goal of the council to have at a  
21 minimum one million plug-in hybrid vehicles on California roads  
22 by 2015.

23 (d) Consider, and recommend as appropriate, financial and  
24 regulatory incentives for automobile manufacturers and other  
25 companies, to encourage them to accelerate the introduction of  
26 plug-in hybrid vehicles. The council shall also consider, and  
27 recommend as appropriate, financial and nonfinancial incentives  
28 to encourage individual consumers and fleet owners to purchase  
29 plug-in hybrid vehicles.

30 (e) Consider financial and regulatory incentives to encourage  
31 the in-state manufacture of plug-in hybrid vehicles and  
32 components. The council shall also consider, and recommend as  
33 appropriate, a multifuel approach, including, but not limited to,  
34 the integration of E85, hydrogen, natural gas, or other fuels into  
35 plug-in hybrid configurations.

36 (f) Develop a public information and education program about  
37 plug-in hybrid characteristics, benefits to consumers and society,  
38 safety, costs, and operating and charging procedures. The council  
39 shall make recommendations on the most effective ways to  
40 implement the information and education program.

1 43854. On or before January 1, 2009, the state board, in  
2 conjunction with other applicable state and federal agencies,  
3 automobile manufacturers and nonprofit research institutions, shall  
4 develop certification testing protocols for emissions, including  
5 both criteria pollutants and greenhouse gases, and fuel consumption  
6 for the different types of plug-in hybrid vehicles.

7 43855. The Department of General Services shall do all of the  
8 following:

9 (a) On or before October 1, 2008, identify the percentage or  
10 number of plug-in hybrid vehicles that, in the determination of  
11 that department, could be reasonably added to the state vehicle  
12 fleet in the future when such vehicles become available, taking  
13 into consideration the benefits of reducing greenhouse gas and  
14 other vehicle emissions.

15 (b) Streamline its procurement procedures for plug-in hybrid  
16 vehicles for state and local agencies, including pooled purchasing  
17 opportunities.

18 (c) Develop mechanisms and incentives to encourage local  
19 governments to identify the number and percentage of plug-in  
20 hybrid vehicles that could reasonably be added to local fleets, and  
21 to procure those vehicles.

22 43856. (a) On or before January 1, 2009, the Public Utilities  
23 Commission, in conjunction with electrical and gas corporations,  
24 shall develop and establish optional off-peak electrical rates for  
25 plug-in hybrid vehicles, or discounts in the cost of electric service  
26 for plug-in hybrid vehicles, taking into consideration the reduction  
27 in greenhouse gas emissions and other benefits to California  
28 ratepayers and citizens as specified in Sections 740.8 and 451 of  
29 the Public Utilities Code.

30 (b) The Public Utilities Commission shall also do all of the  
31 following:

32 (1) Give additional consideration to possible linkage of plug-in  
33 hybrid vehicles to nighttime peaking renewable energy sources,  
34 including, but not limited to, wind power.

35 (2) Consider the establishment of utility testing and  
36 demonstration programs as it determines to be necessary to do any  
37 of the following:

38 (A) Evaluate the impacts of plug-in hybrid vehicles on utility  
39 systems.

40 (B) Encourage load management and energy efficiency.

- 1 (C) Conduct information and education activities.
- 2 (D) Maximize economic and environmental benefits to
- 3 ratepayers.
- 4 (3) The Public Utilities Commission shall also consider the
- 5 establishment of utility programs to provide information and
- 6 assistance to utility customers that may be considering the choice
- 7 of electric transportation and goods-movement technologies.
- 8 43857. Local publicly owned electric utilities, as defined in
- 9 Section 9604 of the Public Utilities Code, may develop and
- 10 establish any of the following:
  - 11 (a) Optional off-peak electrical rates for plug-in hybrid vehicles.
  - 12 (b) Discounts in the cost of electric service for plug-in hybrid
  - 13 vehicles, taking into consideration the reduction in greenhouse gas
  - 14 emissions and other benefits to California ratepayers and citizens.
  - 15 (c) Other utility programs involving plug-in hybrid vehicles.
- 16 43858. The Energy Commission shall award funds in
- 17 accordance with Chapter 7.1 (commencing with Section 25620)
- 18 of Division 15 of the Public Resources Code to reimburse the
- 19 council for those costs the council incurs under this article.

**ASSEMBLY BILL**

**No. 1209**

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**Introduced by Assembly Member Karnette**

February 23, 2007

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An act to add Section 39611 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1209, as introduced, Karnette. State Air Resources Board: bond allocation criteria.

Existing law creates the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to authorize \$19.925 billion of state general obligation bonds for specified purposes. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 requires \$3,100,000,000 of these funds to be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account within the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006, and requires \$1,000,000,000 of these funds to be made available, upon appropriation by the Legislature, to the state board for emissions reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors.

This bill would require the state board to develop guidelines meeting specified requirements for the allocation of the \$1,000,000,000 in funding.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that it is in  
2 the best interest of the state to allocate the one billion dollars  
3 (\$1,000,000,000) in funding made available by paragraph (2) of  
4 subdivision (c) of Section 8879.23 of the Government Code for  
5 projects that are part of a comprehensive plan to cut air pollution  
6 from ports, foster technologies that will reduce greenhouse gas  
7 emissions, and improve public health.

8 SEC. 2. Section 39611 is added to the Health and Safety Code,  
9 to read:

10 39611. (a) The state board shall develop guidelines, consistent  
11 with the requirements of this section, for the allocation of funding  
12 made available pursuant to paragraph (2) of subdivision (c) of  
13 Section 8879.23 of the Government Code.

14 (b) Based on the guidelines established pursuant to this section,  
15 upon appropriation, the state board shall allocate funds by port  
16 region in proportion to the following criteria related to the port  
17 during the most recent calendar year:

18 (1) The health risks and impact on the population surrounding  
19 the port.

20 (2) The annual amount of twenty foot equivalent units (TEUs)  
21 of containerized cargo passed through the port.

22 (3) The annual tonnage of noncontainerized, nonliquid bulk  
23 cargo.

24 (4) The annual number of vessel calls in the port.

25 (5) The nonattainment status of the region in which the port is  
26 in.

27 (c) The state board shall do all of the following in developing  
28 the guidelines required by this section:

29 (1) Base the relative merits of proposed emission reduction  
30 projects on the annual reduction in goods movement diesel-related  
31 particulate matter, sulfur oxides, nitrous oxides, and carbon dioxide  
32 emissions from all vehicles, ships, and locomotives within the  
33 harbor district, and beyond along transportation corridors, that  
34 would be caused by the project. Cost-effectiveness shall be  
35 measured by taking the annualized capital cost and dividing it by  
36 the annual reduction in those emissions.

37 (2) Focus on local sources and areas with the greatest health  
38 impact.

- 1 (3) Base the feasibility and certainty of achieving emission
- 2 reductions on whether the project is the following:
- 3 (A) Involves the use of technology that is verified or certified.
- 4 (B) Is in-use or field tested.
- 5 (C) Meets operational requirements for port service.
- 6 (D) Accepted by the goods movement industry.
- 7 (E) Applicable to both new builds and retrofits.
- 8 (4) Give priority to projects with systemwide and cumulative
- 9 benefits with applications across multiple fleets and operations
- 10 and applications on sources operating throughout the harbor district
- 11 and beyond.
- 12 (5) Provide immediate and sustained reductions in emissions
- 13 and health risks.
- 14 (6) Include clean and innovative goods movement technologies,
- 15 including all of the following:
- 16 (A) Promote alternative fuel use and fuel diversity.
- 17 (B) Promote renewable energy.
- 18 (C) Reduce fuel use.
- 19 (7) Ensure that projects contribute to reducing disproportionate
- 20 and adverse environmental or health impacts attributable to goods
- 21 movement on communities throughout the South Coast Air Basin.
- 22 (8) Focus on areas that promote highway and rail safety.
- 23 (9) Give priority to projects ready for demonstration or prototype
- 24 development that contribute to technology advancement, including,
- 25 but not limited to, green or ultralow switcher locomotives and
- 26 other green container transport systems including linear induction
- 27 motor systems and electric container conveyor systems including
- 28 mag-lev, freight shuttle systems, aerospace freight options, and
- 29 others.
- 30 (10) Allocate funds by giving higher priority to projects
- 31 involving matching funds.

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**Introduced by Senator Runner**February 22, 2007

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An act to amend Section 42310 of the Health and Safety Code, relating to air pollution.

## LEGISLATIVE COUNSEL'S DIGEST

SB 587, as introduced, Runner. Air quality: permit requirement: exemptions.

Existing law authorizes the board of each air quality management district and air pollution control district to establish a permit system that requires any person that uses certain types of equipment that may cause the emission of air contaminants to obtain a permit. Existing law exempts vehicles and certain types of equipment from those permit requirements.

This bill would also exempt printing, coating, adhesive application, or laminating equipment, as specified, from that permit requirement. The bill would limit this exemption to (1) equipment whose volatile organic compound emissions are no greater than 3 pounds per day or 66 pounds per calendar month, (2) equipment that employs ultraviolet (UV) or electric beam (EB) type materials and the total amount of inks, coatings, adhesives, or organic solvents used in this equipment, including in the cleanup, is no more than 6 gallons per day or 132 gallons per calendar month, and (3) equipment that employs UV or EB type materials that contain no more than 50 grams of volatile organic compounds per liter of material and use cleanup solvents containing no more than 50 grams of volatile organic compounds per liter of material. The bill would also correct an erroneous cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 42310 of the Health and Safety Code is  
2 amended to read:

3 42310. (a) A permit ~~shall~~ *is not be* required for any of the  
4 following:

5 (1) Any vehicle.

6 (2) Any structure designed for and used exclusively as a  
7 dwelling for not more than four families.

8 (3) An incinerator used exclusively in connection with a  
9 structure described in ~~subdivision (b)~~ *paragraph (2)*.

10 (4) Barbecue equipment that is not used for commercial  
11 purposes.

12 (5) (A) Repairs or maintenance not involving structural changes  
13 to any equipment for which a permit has been granted.

14 (B) As used in this ~~subdivision~~ *paragraph*, maintenance does  
15 not include operation.

16 (6) *Any printing, coating, adhesive application, or laminating*  
17 *equipment, and associated drying and recycling equipment,*  
18 *including, but not limited to, air spray equipment, airless spray*  
19 *equipment, air-assisted airless spray equipment, high volume*  
20 *low-pressure (HVLV) spray equipment, electrostatic spray*  
21 *equipment, roller coaters, roll-to-roll coaters, dip coaters, vacuum*  
22 *coaters, and flow coaters, if at least one of the following*  
23 *requirements is met:*

24 (A) *The volatile organic compound emissions from the*  
25 *equipment are no greater than three pounds per day or 66 pounds*  
26 *per calendar month.*

27 (B) *The equipment employs ultraviolet (UV) or electric beam*  
28 *(EB) type materials, and the total amount of inks, coatings,*  
29 *adhesives, or organic solvents used in the equipment, including*  
30 *in the cleanup, is no more than six gallons per day or 132 gallons*  
31 *per calendar month.*

32 (C) *The equipment employs ultraviolet (UV) or electric beam*  
33 *(EB) type materials containing no more than 50 grams of volatile*  
34 *organic compounds per liter of material, and uses cleanup solvents*  
35 *containing no more than 50 grams of volatile organic compounds*  
36 *per liter of material.*

37 (b) Nothing in this section shall affect any requirements imposed  
38 on a district or a source of air pollution, including, but not limited

1 to, an agricultural source, pursuant to the federal Clean Air Act  
2 (42 U.S.C. Sec. 7401 et seq.).

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**Introduced by Senator Lowenthal**

(Principal coauthor: Assembly Member De La Torre)

(Coauthors: Assembly Members Carter and Karnette)

February 23, 2007

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An to add Article 10 (commencing with Section 63049.70) to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to amend and renumber Section 1760 of, to add a heading to Chapter 1 (commencing with Section 1720) of, and to add Chapter 2 (commencing with Section 1740) to, Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 974, as introduced, Lowenthal. Ports: congestion relief: environmental mitigation: regulatory fee.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Los Angeles, Long Beach, and Oakland to collect a user fee on the owner of container cargo moving through the Port of Los Angeles, the Port of Long Beach, or the Port of Oakland at a rate of \$30 per twenty-foot equivalent unit (TEU).

The bill would require the Ports of Los Angeles and Long Beach to transmit  $\frac{1}{2}$  of the funds derived from imposition of the fee to the Southern California Port Congestion Relief Trust Fund, which the bill would establish in the State Treasury, and  $\frac{1}{2}$  to the Southern California Port Mitigation Relief Trust Fund, which the bill would establish in the State Treasury. The bill would require the Port of Oakland to transmit  $\frac{1}{2}$  of the funds derived from imposition of the fee to the Northern California Port Congestion Relief Trust Fund, which the bill would establish in the State Treasury, and  $\frac{1}{2}$  to the Northern California Port

Mitigation Relief Trust Fund, which the bill would establish in the State Treasury.

The bill would require the moneys transmitted to the Southern California Port Congestion Relief Trust Fund and the Northern California Port Congestion Relief Trust Fund to be available, upon appropriation, for expenditure by the California Transportation Commission exclusively for the purposes of funding projects that improve the flow and efficiency of container cargo to and from those ports, and funding the administrative costs of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund. The bill would prohibit the commission from using the funds to construct, maintain, or improve highways, with certain exceptions.

The bill would require the moneys transmitted to the Southern California Port Mitigation Relief Trust Fund and the Northern California Port Mitigation Relief Trust Fund to be available, upon appropriation, for expenditure by the State Air Resources Board to develop a list of projects to mitigate environmental pollution caused by the movement of cargo to and from those ports, and for the administration of this program. The bill would prohibit moneys deposited in those funds from being loaned or transferred to, or allocated or appropriated in any other way to, the General Fund.

The bill would establish a state-mandated local program by imposing these additional duties upon the ports.

(2) Existing law sets forth the duties of the Infrastructure and Economic Development Bank and its board of directors generally in performing various financing transactions, including the issuance of bonds.

This bill would authorize the bank to enter into financing agreements with participating parties to finance or refinance Southern California and Northern California port congestion relief projects and Southern California and Northern California port mitigation relief projects. The bank would be authorized to issue revenue bonds. User fees on container ships from the Southern and Northern California Port Congestion Relief Trust Funds and the Southern and Northern California Mitigation Relief Trust Funds would be continuously appropriated to the bank to secure any revenue bonds.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 10 (commencing with Section 63049.70)  
2 is added to Chapter 2 of Division 1 of Title 6.7 of the Government  
3 Code, to read:

4  
5 Article 10. Financing of Port Congestion Relief and Port  
6 Mitigation Relief  
7

8 63049.70. The definitions contained in this section are in  
9 addition to the definitions contained in Section 63010 and together  
10 with the definitions contained in that section shall govern the  
11 construction of this article, unless the context requires otherwise:

12 (a) "Credit facility" means all obligations, including principal,  
13 interest, fees, costs, indemnities, and all other amounts incurred  
14 by the bank under or in connection with any credit enhancement  
15 or liquidity agreement, including a letter of credit, standby purchase  
16 agreement, reimbursement agreement, liquidity facility, or other  
17 similar arrangement entered into by the bank.

18 (b) "Northern California port congestion relief container fee  
19 revenue" means all of the following:

20 (1) Income and receipts derived by the bank from Northern  
21 California port congestion relief container fees.

22 (2) Interest and other income from investment of money in any  
23 fund or account established pursuant to an indenture for Northern  
24 California Port Congestion Relief Container Fee Revenue Bonds,  
25 other than any fund established to rebate investment earnings to  
26 the federal government.

27 (A) Amounts on deposit in these funds and accounts, other than  
28 any fund or account established to rebate investment earnings to  
29 the federal government and any fund or account established to

1 hold the proceeds of a drawing on any liquidity or credit support  
2 facility for these bonds.

3 (B) Net income and net receipts derived by the bank on account  
4 of interest rate swaps with respect to these bonds.

5 (c) “Northern California Port Congestion Relief Container Fee  
6 Revenue Bonds” means revenue bonds issued pursuant to this  
7 article that are payable from Northern California port congestion  
8 relief container fee revenue.

9 (d) “Northern California port congestion relief container fees”  
10 means all user fees that are imposed pursuant to Section 1747 of  
11 the Harbors and Navigation Code and remitted to the Northern  
12 California Port Congestion Relief Trust Fund in the State Treasury.

13 (e) “Northern California port congestion relief project” means  
14 each project for public development facilities and economic  
15 development facilities for which the expenditure of funds has been  
16 approved by the California Transportation Commission pursuant  
17 to Section 1751 of the Harbors and Navigation Code.

18 (f) “Northern California port mitigation relief container fee  
19 revenue” means all of the following:

20 (1) Income and receipts derived by the bank from Northern  
21 California port mitigation relief container fees.

22 (2) Interest and other income from investment of money in any  
23 fund or account established pursuant to an indenture for Northern  
24 California Port Mitigation Relief Container Fee Revenue Bonds,  
25 other than any fund established to rebate investment earnings to  
26 the federal government.

27 (A) Amounts on deposit in these funds and accounts, other than  
28 any fund or account established to rebate investment earnings to  
29 the federal government and any fund or account established to  
30 hold the proceeds of a drawing on any liquidity or credit support  
31 facility for these bonds.

32 (B) Net income and net receipts derived by the bank on account  
33 of interest rate swaps with respect to these bonds.

34 (g) “Northern California Port Mitigation Relief Container Fee  
35 Revenue Bonds” means revenue bonds issued pursuant to this  
36 article that are payable from Northern California port mitigation  
37 relief container fee revenue.

38 (h) “Northern California port mitigation relief container fees”  
39 means all user fees that are imposed pursuant to Section 1747 of

1 the Harbors and Navigation Code and remitted to the Northern  
2 California Port Mitigation Relief Trust Fund in the State Treasury.

3 (i) “Northern California port mitigation relief project” means  
4 each project for public development facilities and economic  
5 development facilities for which the expenditure of funds has been  
6 approved by the State Air Resources Board pursuant to Section  
7 1753 Harbors and Navigation Code.

8 (j) “Southern California port congestion relief container fee  
9 revenue” means all of the following:

10 (1) Income and receipts derived by the bank from Southern  
11 California port congestion relief container fees.

12 (2) Interest and other income from investment of money in any  
13 fund or account established pursuant to an indenture for Southern  
14 California Port Congestion Relief Container Fee Revenue Bonds,  
15 other than any fund established to rebate investment earnings to  
16 the federal government.

17 (A) Amounts on deposit in these funds and accounts, other than  
18 any fund or account established to rebate investment earnings to  
19 the federal government and any fund or account established to  
20 hold the proceeds of a drawing on any liquidity or credit support  
21 facility for these bonds.

22 (B) Net income and net receipts derived by the bank on account  
23 of interest rate swaps with respect to these bonds.

24 (k) “Southern California Port Congestion Relief Container Fee  
25 Revenue Bonds” means revenue bonds issued pursuant to this  
26 article that are payable from Southern California port congestion  
27 relief container fee revenue.

28 (l) “Southern California port congestion relief container fees”  
29 means all user fees that are imposed pursuant to Sections 1745  
30 and 1746 of the Harbors and Navigation Code and remitted to the  
31 Southern California Port Congestion Relief Trust Fund in the State  
32 Treasury.

33 (m) “Southern California port congestion relief project” means  
34 each project for public development facilities and economic  
35 development facilities for which the expenditure of funds has been  
36 approved by the California Transportation Commission pursuant  
37 to Section 1750 of the Harbors and Navigation Code.

38 (n) “Southern California port mitigation relief container fee  
39 revenue” means all of the following:

- 1 (1) Income and receipts derived by the bank from Southern
- 2 California port mitigation relief container fees.
- 3 (2) Interest and other income from investment of money in any
- 4 fund or account established pursuant to an indenture for Southern
- 5 California Port Mitigation Relief Container Fee Revenue Bonds,
- 6 other than any fund established to rebate investment earnings to
- 7 the federal government.
- 8 (3) Amounts on deposit in these funds and accounts, other than
- 9 any fund or account established to rebate investment earnings to
- 10 the federal government and any fund or account established to
- 11 hold the proceeds of a drawing on any liquidity or credit support
- 12 facility for these bonds.
- 13 (4) Net income and net receipts derived by the bank on account
- 14 of interest rate swaps with respect to these bonds.
- 15 (o) “Southern California Port Mitigation Relief Container Fee
- 16 Revenue Bonds” means revenue bonds issued pursuant to this
- 17 article that are payable from Southern California port mitigation
- 18 relief container fee revenue.
- 19 (p) “Southern California port mitigation relief container fees”
- 20 means all user fees that are imposed pursuant to Sections 1745
- 21 and 1746 of the Harbors and Navigation Code and remitted to the
- 22 Southern California Port Mitigation Relief Trust Fund in the State
- 23 Treasury.
- 24 (q) “Southern California port mitigation project” means each
- 25 project for public development facilities and economic
- 26 development facilities for which the expenditure of funds has been
- 27 approved by the State Air Resources Board pursuant to Section
- 28 1752 of the Harbors and Navigation Code.
- 29 63049.71. (a) The bank may enter into financing agreements
- 30 with participating parties for the purpose of financing or
- 31 refinancing Southern California port congestion relief projects and
- 32 Southern California port mitigation relief projects.
- 33 (b) The bank may issue bonds pursuant to this chapter as
- 34 Southern California Port Congestion Relief Container Fee Revenue
- 35 Bonds to finance or refinance Southern California port congestion
- 36 relief projects and as Southern California Port Mitigation Relief
- 37 Container Fee Revenue Bonds to finance or refinance Southern
- 38 California port mitigation relief projects. The aggregate principal
- 39 amount of the bonds that may be issued is unlimited, but the
- 40 aggregate principal amount of the bonds that may be outstanding

1 at any one time is five billion dollars (\$5,000,000,000). The  
2 revenue bonds may also be issued to finance necessary reserves,  
3 capitalized interest, credit enhancement costs, and costs of issuance  
4 of the revenue bonds. The last date for payment of principal of  
5 any revenue bond may not be more than 30 years after the date of  
6 issuance of the revenue bond.

7 (c) Principal of and interest and redemption premiums on  
8 Southern California Port Congestion Relief Container Fee Revenue  
9 Bonds and Southern California port mitigation relief container fee  
10 revenue bonds shall be payable from, and secured by, Southern  
11 California port congestion relief container fee revenue and Southern  
12 California port mitigation relief container fee revenue, respectively,  
13 as and to the extent provided in the constituent instruments defining  
14 the rights of the holders of the bonds.

15 63049.72. (a) The bank may enter into financing agreements  
16 with participating parties for the purpose of financing or  
17 refinancing Northern California port congestion relief projects and  
18 Northern California port mitigation relief projects.

19 (b) The bank may issue bonds pursuant to this chapter as  
20 Northern California Port Congestion Relief Container Fee Revenue  
21 Bonds to finance or refinance Northern California port congestion  
22 relief projects and as Northern California Port Mitigation Relief  
23 Container Fee Revenue Bonds to finance or refinance Northern  
24 California Port Mitigation relief projects. The aggregate principal  
25 amount of the bonds that may be issued is unlimited, but the  
26 aggregate principal amount of the bonds that may be outstanding  
27 at any one time is five billion dollars (\$5,000,000,000). The  
28 revenue bonds may also be issued to finance necessary reserves,  
29 capitalized interest, credit enhancement costs, and costs of issuance  
30 of the revenue bonds. The last date for payment of principal of  
31 any revenue bond may not be more than 30 years after the date of  
32 issuance of the revenue bond.

33 (c) Principal of and interest and redemption premiums on  
34 Northern California Port Congestion Relief Container Fee Revenue  
35 Bonds and Northern California port mitigation relief container fee  
36 revenue bonds shall be payable from, and secured by, Northern  
37 California port congestion relief container fee revenue and Northern  
38 California port mitigation relief container fee revenue, respectively,  
39 all as and to the extent provided in the constituent instruments  
40 defining the rights of the holders of the bonds.

1 63049.73. (a) The bank may pledge all or any portion of the  
2 Southern California port congestion relief container fees to secure  
3 Southern California Port Congestion Relief Container Fee Revenue  
4 Bonds, and credit facilities for these bonds, and all or any portion  
5 of the Southern California port mitigation relief container fees to  
6 secure Southern California port mitigation relief container fee  
7 revenue bonds, and credit facilities for these bonds. All Southern  
8 California port congestion relief container fees and Southern  
9 California port mitigation relief container fees so pledged are  
10 hereby continuously appropriated, notwithstanding Section 13340,  
11 without regard to fiscal years, to the bank, and, if the bank so  
12 directs, shall be paid to the indenture trustee for these bonds each  
13 month, from the Southern California Port Congestion Relief Trust  
14 Fund and the Southern California Port Mitigation Relief Trust  
15 Fund for so long as any of the bonds are outstanding. Any Southern  
16 California port congestion relief container fees and Southern  
17 California port mitigation relief container fees that are not required  
18 to be retained by the indenture trustee pursuant to the constituent  
19 instruments defining the rights of the holders of the bonds shall  
20 be remitted by the indenture trustee to the Southern California Port  
21 Congestion Relief Trust Fund and the Southern California Port  
22 Mitigation Relief Trust Fund and shall be disbursed at the request  
23 and direction of the California Transportation Commission and  
24 the State Air Resources Board, respectively, for Southern California  
25 congestion relief projects and Southern California port mitigation  
26 projects that are not being financed with revenue bonds issued by  
27 the bank, and these funds are hereby continuously appropriated,  
28 notwithstanding Section 13340, without regard to fiscal years, for  
29 that purpose.

30 (b) The state hereby pledges to and agrees with the holders of  
31 revenue bonds issued pursuant to this article, and each provider  
32 of a letter of credit, standby purchase agreement, reimbursement  
33 agreement, liquidity facility, or other similar arrangement for the  
34 benefit of the revenue bonds, that the state will not limit, alter, or  
35 restrict each pledge of Southern California port congestion relief  
36 container fees and Southern California port mitigation relief  
37 container fees permitted hereby and any other terms of any  
38 agreement made with or for the benefit of the holders of the  
39 revenue bonds or the providers or in any way impair the rights or

1 remedies of the holders of the bonds or the providers or reduce or  
2 terminate the fees while any the bonds remain outstanding.

3 63049.74 (a) The bank may pledge all or any portion of the  
4 Northern California port congestion relief container fees to secure  
5 Northern California Port Congestion Relief Container Fee Revenue  
6 Bonds, and credit facilities for these bonds, and all or any portion  
7 of the Northern California port mitigation relief container fees to  
8 secure Northern California Port Mitigation Relief Container Fee  
9 Revenue Bonds, and credit facilities for these bonds. All Northern  
10 California port Congestion relief container fees and Northern  
11 California port mitigation relief container fees so pledged are  
12 hereby continuously appropriated, notwithstanding Section 13340,  
13 without regard to fiscal years, to the bank, and, if the bank so  
14 directs, shall be paid to the indenture trustee for the bonds each  
15 month, from the Northern California Port Congestion Relief Trust  
16 Fund and the Northern California Port Mitigation Relief Trust  
17 Fund for so long as any of the bonds are outstanding. Any Northern  
18 California port congestion relief container fees and Northern  
19 California port mitigation relief container fees that are not required  
20 to be retained by the indenture trustee pursuant to the constituent  
21 instruments defining the rights of the holders of the bonds shall  
22 be remitted by the indenture trustee to the Northern California Port  
23 Congestion Relief Trust Fund and the Northern California Port  
24 Mitigation Relief Trust Fund and shall be disbursed at the request  
25 and direction of the California Transportation Commission and  
26 the State Air Resources Board, respectively, for Northern California  
27 port congestion relief projects and Northern California port  
28 mitigation relief projects that are not being financed with revenue  
29 bonds issued by the bank, and these funds are hereby continuously  
30 appropriated, notwithstanding Section 13340, without regard to  
31 fiscal years, for that purpose.

32 (b) The state hereby pledges to and agrees with the holders of  
33 revenue bonds issued pursuant to this article, and each provider  
34 of a letter of credit, standby purchase agreement, reimbursement  
35 agreement, liquidity facility, or other similar arrangement for the  
36 benefit of the revenue bonds, that the state will not limit, alter, or  
37 restrict each pledge of Northern California port congestion relief  
38 container fees and Northern California port mitigation relief  
39 container fees permitted hereby and any other terms of any  
40 agreement made with or for the benefit of the holders of the

1 revenue bonds or the providers or in any way impair the rights or  
2 remedies of the holders of the bonds or the providers or reduce or  
3 terminate the fees while any the bonds remain outstanding.

4 63049.75 Notwithstanding any other provision of law, Article  
5 3 (commencing with Section 63040), Article 4 (commencing with  
6 Section 63042), and Article 5 (commencing with Section 63043)  
7 of this chapter do not apply to any financing provided by the bank  
8 pursuant to this article, and the principal amount of revenue bonds  
9 issued pursuant to this article and Chapter 5 (commencing with  
10 Section 63070) shall not count against the limit stated in the first  
11 sentence of subdivision (b) of Section 63071.

12 SEC. 2. The heading of Chapter 1 (commencing with Section  
13 1720) is added to Part 2 of Division 6 of the Harbors and  
14 Navigation Code, immediately preceding Section 1720, to read:

15  
16 CHAPTER 1. PORT FACILITY CONSTRUCTION  
17

18 SEC. 3. Chapter 2 (commencing with Section 1740) is added  
19 to Part 2 of Division 6 of the Harbors and Navigation Code, to  
20 read:

21  
22 CHAPTER 2. PORT CONGESTION RELIEF AND PORT MITIGATION  
23 RELIEF  
24

25 Article 1. General Provisions  
26

27 1740. The Legislature hereby finds and declares all of the  
28 following:

29 (a) There is a need to mitigate the enormous burden imposed  
30 on the highway transportation system serving the Ports of Los  
31 Angeles, Long Beach, and Oakland by the overland movement of  
32 cargo shipped from and to those ports.

33 (b) The operation of the ports causes environmental pollution  
34 that requires mitigation.

35 (c) The improvement of goods movement infrastructure would  
36 benefit the owners of container cargo moving through the ports  
37 by allowing the owners of the cargo to move container cargo more  
38 efficiently and to move more cargo through those ports.

39 (d) The reduction of goods movement pollution would benefit  
40 the owners of container cargo moving through the ports by meeting

1 federal air quality standards, which will allow for continued federal  
2 funding of goods movement infrastructure projects.

3 (e) Accordingly, it is the intent of the Legislature to alleviate  
4 these burdens by imposing a fee on shipping containers processed  
5 through those ports and using the funds derived from that fee to  
6 do both of the following:

7 (1) Improve the rail system that serves as an alternative to  
8 shipping on the highway by commercial vehicle, including, but  
9 not limited to, the ondock rail facilities at those ports.

10 (2) Mitigate the environmental pollution caused by port  
11 operations.

12 1741. (a) There is hereby established in the State Treasury the  
13 Southern California Port Congestion Relief Trust Fund.

14 (b) There is hereby established in the State Treasury the  
15 Northern California Port Congestion Relief Trust Fund.

16 (c) There is hereby established in the State Treasury the Southern  
17 California Port Mitigation Relief Trust Fund.

18 (d) There is hereby established in the State Treasury the  
19 Northern California Port Mitigation Relief Trust Fund.

20 1743. For purposes of this chapter, the following definitions  
21 apply:

22 (a) “Board” means the State Air Resources Board.

23 (b) “Commission” means the California Transportation  
24 Commission.

25 (c) “Northern California Congestion Fund” means the Northern  
26 California Port Congestion Relief Trust Fund.

27 (d) “Northern California Mitigation Fund” means the Northern  
28 California Port Mitigation Relief Trust Fund.

29 (e) “Port” means the Port of Los Angeles, Port of Long Beach,  
30 or Port of Oakland, as appropriate.

31 (f) “Southern California Congestion Fund” means the Southern  
32 California Port Congestion Relief Trust Fund.

33 (g) “Southern California Mitigation Fund” means the Southern  
34 California Port Mitigation Relief Trust Fund.

35

36

37

## Article 2. User Fee

38 1745. (a) Beginning January 1, 2008, the Port of Los Angeles  
39 shall develop a process for notifying the owner of, and collecting

1 a user fee from the owner of, container cargo moving through the  
2 port.

3 (b) No later than June 1, 2008, the port shall notify the owner  
4 of cargo moving through the port that it will be assessed a user fee  
5 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit  
6 (TEU). The notice shall include, but not be limited to, the process  
7 for payment of the user fee, the frequency for payment of the user  
8 fee, and that the user fee is being assessed to improve the goods  
9 movement infrastructure serving the port, to reduce pollution from  
10 all forms of equipment, vehicles, locomotives, and ships that  
11 operate at the port and bring containers to and from the port.

12 (c) Beginning January 1, 2009, the port shall assess a user fee  
13 on the owner of container cargo moving through the port not to  
14 exceed thirty dollars (\$30) per TEU. The port shall collect the fee  
15 at least twice a year.

16 (1) The port shall remit one-half of the user fee to the Southern  
17 California Congestion Fund. Upon appropriation, moneys deposited  
18 in that fund shall be available for expenditure by the commission  
19 exclusively for the purposes of funding projects that improve the  
20 flow and efficiency of container cargo to and from the Port of Los  
21 Angeles, and to fund the administrative costs of this program.  
22 Moneys deposited in that fund shall not be loaned or transferred  
23 to, or allocated or appropriated in any other way to, the General  
24 Fund.

25 (2) The port shall remit one-half of the user fee to the Southern  
26 California Mitigation Fund. Upon appropriation, moneys deposited  
27 in that fund shall be available for expenditure by the board to  
28 mitigate environmental pollution caused by the movement of cargo  
29 to and from the Port of Los Angeles by commercial motor vehicles,  
30 oceangoing vessels, and rail, and to fund the administrative costs  
31 of this program. Moneys deposited in that fund shall not be loaned  
32 or transferred to, or allocated or appropriated in any other way to,  
33 the General Fund.

34 (d) The port may contract with PierPass for the collection of  
35 the user fee authorized pursuant to this section.

36 1746. (a) Beginning January 1, 2008, the Port of Long Beach  
37 shall develop a process for notifying the owner of, and collecting  
38 a user fee from the owner of, container cargo moving through the  
39 port.

1 (b) No later than June 1, 2008, the port shall notify the owner  
2 of cargo moving through the port that it will be assessed a user fee  
3 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit  
4 (TEU). The notice shall include, but not be limited to, the process  
5 for payment of the user fee, the frequency for payment of the user  
6 fee, and that the user fee is being assessed to improve the goods  
7 movement infrastructure serving the port, to reduce pollution from  
8 all forms of equipment, vehicles, locomotives, and ships that  
9 operate at the port and bring containers to and from the port.

10 (c) Beginning January 1, 2009, the port shall assess a user fee  
11 on the owner of container cargo moving through the port not to  
12 exceed thirty dollars (\$30) per TEU. The port shall collect the fee  
13 at least twice a year.

14 (1) The port shall remit one-half of the user fee to the Southern  
15 California Congestion Fund. Upon appropriation, moneys deposited  
16 in that fund shall be available for expenditure by the commission  
17 exclusively for the purposes of funding projects that improve the  
18 flow and efficiency of container cargo to and from the Port of and  
19 Long Beach, and to fund the administrative costs of this program.  
20 Moneys deposited in that fund shall not be loaned or transferred  
21 to, or allocated or appropriated in any other way to, the General  
22 Fund.

23 (2) The port shall remit one-half of the user fee to the Southern  
24 California Mitigation Fund. Upon appropriation, moneys deposited  
25 in that fund shall be available for expenditure by the board to  
26 mitigate environmental pollution caused by the movement of cargo  
27 to and from the Port of Long Beach by commercial motor vehicles,  
28 oceangoing vessels, and rail, and to fund the administrative costs  
29 of this program. Moneys deposited in that fund shall not be loaned  
30 or transferred to, or allocated or appropriated in any other way to,  
31 the General Fund.

32 (d) The port may contract with PierPass for the collection of  
33 the user fee authorized pursuant to this section.

34 1747. (a) Beginning January 1, 2008, the Port of Oakland shall  
35 develop a process for notifying the owner of, and collecting a user  
36 fee from the owner of, container cargo moving through the port.

37 (b) No later than June 1, 2008, the port shall notify the owner  
38 of cargo moving through the port that it will be assessed a user fee  
39 not to exceed thirty dollars (\$30) per twenty-foot equivalent unit  
40 (TEU). The notice shall include, but not be limited to, the process

1 for payment of the user fee, the frequency for payment of the user  
2 fee, and that the user fee is being assessed to improve the goods  
3 movement infrastructure serving the port, to reduce pollution from  
4 all forms of equipment, vehicles, locomotives, and ships that  
5 operate at the port and bring containers to and from the port.

6 (c) Beginning January 1, 2009, the port shall assess a user fee  
7 on the owner of container cargo moving through the port not to  
8 exceed thirty dollars (\$30) per TEU. The port shall collect the fee  
9 at least twice a year.

10 (1) The port shall remit one-half of the user fee to the Northern  
11 California Congestion Fund. Upon appropriation, moneys deposited  
12 in that fund shall be available for expenditure by the commission  
13 exclusively for the purposes of funding projects that improve the  
14 flow and efficiency of container cargo to and from the Port of  
15 Oakland and to fund the administrative costs of this program.  
16 Moneys deposited in that fund shall not be loaned or transferred  
17 to, or allocated or appropriated in any other way to, the General  
18 Fund.

19 (2) The port shall remit one-half of the user fee to the Northern  
20 California Mitigation Fund. Upon appropriation, moneys deposited  
21 in that fund shall be available for expenditure by the board to  
22 mitigate environmental pollution caused by the movement of cargo  
23 to and from the port by commercial motor vehicles, oceangoing  
24 vessels, and rail, and to fund the administrative costs of this  
25 program. Moneys deposited in that fund shall not be loaned or  
26 transferred to, or allocated or appropriated in any other way to,  
27 the General Fund.

28 (d) The port may contract with PierPass for the collection of  
29 the user fee authorized pursuant to this section.

30

31 Article 3. Congestion Relief and Mitigation Relief Projects

32

33 1750. (a) Beginning January 1, 2008, the commission shall  
34 develop a list of projects that would improve the overall efficiency  
35 of container cargo movement to and from the Ports of Los Angeles  
36 and Long Beach by improving the rail system and container  
37 transportation systems that transport container cargo from and to  
38 those ports and the ondock rail facilities at those ports. In the  
39 process for selecting projects, the commission shall consult with  
40 the transportation commissions for the Counties of Los Angeles,

1 Orange, Riverside, San Bernardino, and Ventura, the Port of Los  
2 Angeles, the City of Los Angeles, the Port of Long Beach, the City  
3 of Long Beach, and the Southern California Association of  
4 Governments. The commission shall hold public hearings to seek  
5 further input on developing these projects.

6 (b) No later than September 1, 2008, the commission, at a public  
7 hearing, shall finalize a list of projects that would improve the  
8 overall efficiency of container cargo movement to and from the  
9 Ports of Los Angeles and Long Beach by improving the rail system  
10 and container transportation systems that transport container cargo  
11 from and to those ports and the ondock rail facilities at those ports.  
12 This will be the final list, of infrastructure projects at the Ports of  
13 Los Angeles and Long Beach, eligible to be funded by the user  
14 fee authorized pursuant to this chapter.

15 (c) Projects eligible to be on the final list shall not be used to  
16 construct, maintain, or improve highways, unless the highway or  
17 road improvement is part of a rail grade separation, or the highway  
18 improvement is done to separate container cargo from motor  
19 vehicle traffic by creating on-ramps or off-ramps for port container  
20 truck traffic.

21 (d) In awarding funds pursuant to this section, the commission  
22 shall give priority to those projects that have been designed to  
23 measurably reduce air pollution and environmental impacts to  
24 local communities, to assist in attaining state and federal air quality  
25 goals and enhance environmental performance while addressing  
26 the overall efficiency of container cargo movement.

27 (e) For all construction projects funded pursuant to this section,  
28 a contractor shall ensure that all mobile nonroad equipment used  
29 on the project will be equipped with a California Air Resources  
30 Board (CARB) verified diesel particulate filter that obtains at least  
31 an 85-percent reduction in emissions, unless any of the following  
32 circumstances exists, and the contractor is able to provide proof  
33 that any of these circumstances exists:

34 (1) A piece of specialized equipment is unavailable in a  
35 controlled form within the state, including through a leasing  
36 arrangement.

37 (2) A contractor has applied for incentive funds to put controls  
38 on a piece of uncontrolled equipment planned for use on the  
39 project, but the application is not yet approved, or the application  
40 has been approved, but funds are not yet available.

1 (3) A contractor has ordered a control device for a piece of  
2 equipment planned for use on the project, or has ordered a new  
3 piece of controlled equipment to replace the uncontrolled  
4 equipment, but that order has not been completed by the  
5 manufacturer or dealer, and the contractor has attempted to lease  
6 controlled equipment, but no dealer within 200 miles of the project  
7 has the controlled equipment available for lease.

8 (f) Projects eligible to be considered by the commission include,  
9 but are not limited to, all of the following:

10 (1) A project to separate at-grade crossings to reduce conflicts  
11 between trains and motor vehicles in Los Angeles, Orange,  
12 Riverside, and San Bernardino Counties, also known as the  
13 Alameda Corridor East Project.

14 (2) A project to improve rail capacity by adding additional tracks  
15 to existing rail lines in Los Angeles, Orange, Riverside, and San  
16 Bernardino Counties.

17 (3) A project to separate at-grade rail crossings in San  
18 Bernardino County, also known as the Colton crossing.

19 (4) A project to improve ondock rail infrastructure at the Ports  
20 of Los Angeles and Long Beach.

21 (g) In determining which projects to select, the commission  
22 shall also take into account the entire rail and trade corridor  
23 servicing the Ports of Los Angeles and Long Beach.

24 (h) The commission shall only use the funds received from the  
25 Southern California Congestion Fund to fund projects authorized  
26 pursuant to this section.

27 (i) Once the projects on the final list are completed and fully  
28 funded, the commission shall notify the Ports of Los Angeles and  
29 Long Beach that the infrastructure projects are completed and to  
30 no longer collect the one-half of the user fee for infrastructure  
31 projects. The commission may also make a finding that a project  
32 on the final list has either been funded by another source or is no  
33 longer worthy of funding.

34 1751. (a) Beginning January 1, 2008, the commission shall  
35 develop a list of projects that would improve the overall efficiency  
36 of container cargo movement to and from the Port of Oakland by  
37 improving the rail and container transportation systems that  
38 transport container cargo from and to that port and the ondock rail  
39 facilities at that port. In the process for selecting projects, the  
40 commission shall consult with the transportation commissions for

1 the Counties of Alameda and Contra Costa, the Port of Oakland,  
2 the City of Oakland, and the Bay Area Association of  
3 Governments. The commission shall hold public hearings to seek  
4 further input on developing these projects, including at least one  
5 hearing in the City of Oakland.

6 (b) No later than September 1, 2008, the commission, at a public  
7 hearing, shall finalize a list of projects that would improve the  
8 overall efficiency of container cargo movement to and from the  
9 Port of Oakland by improving the rail and container transportation  
10 systems that transport container cargo from and to that port and  
11 the ondock rail facilities at that port. This will be the final list, of  
12 infrastructure projects at the Port of Oakland, eligible to be funded  
13 by the user fee authorized pursuant to this chapter.

14 (c) Projects eligible to be on the final list shall not be used to  
15 construct, maintain, or improve highways, unless the highway or  
16 road improvement is part of a rail grade separation, or the highway  
17 improvement is done to separate container cargo from motor  
18 vehicle traffic by creating on-ramps or off-ramps for port container  
19 truck traffic.

20 (d) In awarding funds pursuant to this section, the commission  
21 shall give priority to those projects that have been designed to  
22 measurably reduce air pollution and environmental impacts to  
23 local communities, to assist in attaining state and federal air quality  
24 goals and enhance environmental performance while addressing  
25 the overall efficiency of container cargo movement.

26 (e) For all construction projects funded pursuant to this section,  
27 a contractor shall ensure that all mobile nonroad equipment used  
28 on the project will be equipped with a California Air Resources  
29 Board (CARB) verified diesel particulate filter that obtains at least  
30 an 85 percent reduction in emissions, unless any of the following  
31 circumstances exists, and the contractor is able to provide proof  
32 that any of these circumstances exists:

33 (1) A piece of specialized equipment is unavailable in a  
34 controlled form within the state, including through a leasing  
35 arrangement.

36 (2) A contractor has applied for incentive funds to put controls  
37 on a piece of uncontrolled equipment planned for use on the  
38 project, but the application is not yet approved, or the application  
39 has been approved, but funds are not yet available.

1 (3) A contractor has ordered a control device for a piece of  
2 equipment planned for use on the project, or has ordered a new  
3 piece of controlled equipment to replace the uncontrolled  
4 equipment, but that order has not been completed by the  
5 manufacturer or dealer, and the contractor has attempted to lease  
6 controlled equipment, but no dealer within 200 miles of the project  
7 has the controlled equipment available for lease.

8 (f) Projects eligible to be considered by the commission include,  
9 but are not limited to, projects to separate at-grade crossings to  
10 reduce conflicts between trains and motor vehicles and ondock  
11 rail improvements at the Port of Oakland.

12 (g) In determining which projects to select, the commission  
13 shall also take into account the entire rail and trade corridor  
14 servicing the Port of Oakland.

15 (h) The commission shall only use the funds received from the  
16 Northern California Congestion Fund to fund projects authorized  
17 pursuant to this section.

18 (i) Once the projects on the final list are completed and fully  
19 funded, the commission shall notify the Port of Oakland, that the  
20 infrastructure projects are completed and to no longer collect the  
21 one-half of the user fee for infrastructure projects. The commission  
22 may also make a finding that a project on the final list has either  
23 been funded by another source or is no longer worthy of funding.

24 1752. (a) Beginning January 1, 2008, the board shall develop  
25 a list of projects that reduce air pollution caused by the movement  
26 of container cargo to and from the Ports of Los Angeles and Long  
27 Beach. The projects on the list shall be consistent with the Emission  
28 Reduction Plan (ERP) adopted April 2006, and shall be designed  
29 to reduce air pollution at those ports in order to reach federal air  
30 quality attainment standards and to meet the ERP's goals for 2010,  
31 2015, and 2020. In developing the list, the board shall consult with  
32 the South Coast Air Quality Management District, the Gateway  
33 Council of Governments, and the Ports of Los Angeles and Long  
34 Beach.

35 (b) The board shall work with the South Coast Air Quality  
36 Management District, the Port of Long Beach, and the Port of Los  
37 Angeles in order to ensure that projects within the San Pedro Bay  
38 Clean Air Action Plan are completed or implemented. The board  
39 may provide funding to the district or the ports in order to achieve  
40 the goals of the plan.

1 (c) No later than September 1, 2008, the board, at a public  
2 hearing, shall finalize a list of projects that meet the ERP's goals  
3 for 2010, 2015, and 2020, in order to meet federal air quality  
4 attainment standards.

5 (d) The board may determine, at a public hearing, that the  
6 emission reduction goals for 2020 have been met or exceeded and  
7 that federal air quality standards have been met in the South Coast  
8 Air Basin, and once the determination is made, and ensuring that  
9 all approved projects have been funded, the board shall notify the  
10 Port of Los Angeles of this determination, and the Port of Los  
11 Angeles shall no longer collect the one-half of the user fee for air  
12 quality projects meant to reach these goals and federal air quality  
13 attainment standards.

14 (e) The board may determine, at a public hearing, that the  
15 emission reduction goals for 2020 have been met or exceeded and  
16 that federal air quality standards have been met in the South Coast  
17 Air Basin, and once the determination is made, and ensuring that  
18 all approved projects have been funded, the board shall notify the  
19 Port of Long Beach of this determination, and the Port of Long  
20 Beach shall no longer collect the one-half of the user fee for air  
21 quality projects meant to reach these goals and federal air quality  
22 attainment standards.

23 (f) The board shall only use the funds received from the  
24 Southern California Mitigation Fund to fund projects authorized  
25 pursuant to this section.

26 1753. (a) Beginning January 1, 2008, the board shall develop  
27 a list of projects that reduce air pollution caused by the movement  
28 of container cargo to and from the Port of Oakland. The projects  
29 on the list shall be consistent with the Emission Reduction Plan  
30 (ERP) adopted April 2006, and shall be designed to reduce air  
31 pollution at the port in order to reach federal air quality attainment  
32 standards and to meet the ERP's goals for 2010, 2015, and 2020.  
33 In developing the list, the board shall consult with the Bay Area  
34 Air Quality Management District and the Port of Oakland.

35 (b) If the Bay Area Air Quality Management District and the  
36 Port of Oakland develop a plan to reduce emissions from the Port  
37 of Oakland, then the board shall work with the district and the Port  
38 of Oakland in order to ensure that projects within the plan are  
39 completed or implemented. The board may provide funding to the  
40 district or the port in order to achieve the goals of the plan.

1 (c) No later than September 1, 2008, the board, at a public  
2 hearing, shall finalize a list of projects that meet the ERP's goals  
3 for 2010, 2015, and 2020, in order to meet federal air quality  
4 attainment standards.

5 (d) The board may determine, at a public hearing, that the  
6 emission reduction goals for 2020 have been met or exceeded and  
7 that federal air quality standards have been met within the Bay  
8 Area Air Quality Management District, and once the determination  
9 is made, and ensuring that all approved projects have been funded,  
10 the board shall notify the Port of Oakland of this determination,  
11 and the Port of Oakland shall no longer collect the one-half of the  
12 user fee for air quality projects meant to reach these goals and  
13 federal air quality attainment standards.

14 (e) The board shall only use the funds received from the  
15 Northern California Mitigation Fund to fund projects authorized  
16 pursuant to this section.

17 SEC. 4. Section 1760 of the Harbors and Navigation Code is  
18 amended and renumbered to read:

19 ~~1760.~~

20 1730. (a) For purposes of this section, "council" means the  
21 California Marine and Intermodal Transportation System Advisory  
22 Council, a regional subunit of the Marine Transportation System  
23 National Advisory Council chartered by the federal Secretary of  
24 Transportation under the Federal Advisory Council Act (P.L.  
25 92-463).

26 (b) The council is requested to do all of the following:

27 (1) Meet, hold public hearings, and compile data on issues that  
28 include, but need not be limited to, all of the following:

29 (A) The projected growth of each maritime port in the state.

30 (B) The costs and benefits of developing a coordinated state  
31 program to obtain federal funding for maritime port growth,  
32 security, and congestion relief.

33 (C) Impacts of maritime port growth on the state's transportation  
34 system.

35 (D) Air pollution caused by movement of goods through the  
36 state's maritime ports, and proposed methods of mitigating or  
37 alleviating that pollution.

38 (E) Maritime port security, including, but not limited to, training,  
39 readiness, certification of port personnel, exercise planning and

1 conduct, and critical marine transportation system infrastructure  
2 protection.

3 (F) A statewide plan for continuing operation of maritime ports  
4 in cooperation with the United States Coast Guard, the federal  
5 Department of Homeland Security, the Office of Emergency  
6 Services, the state Office of Homeland Security, and the California  
7 National Guard, consistent with the state's emergency management  
8 system and the national emergency management system, in the  
9 event of a major incident or disruption of port operations in one  
10 or more of the state's maritime ports.

11 (G) State marine transportation policy, legislation, and planning;  
12 regional infrastructure project funding; competitiveness;  
13 environmental impacts; port safety and security; and any other  
14 matters affecting the marine transportation system of the United  
15 States within, or affecting, the state.

16 (2) Identify all state agencies that are involved with the  
17 development, planning, or coordination of maritime ports in the  
18 state.

19 (3) Identify other states that have a statewide port master plan  
20 and determine whether that plan has assisted those states in  
21 improving their maritime ports.

22 (4) Compile all information obtained pursuant to paragraphs  
23 (1) to (3), inclusive, and submit its findings in a report to the  
24 Legislature not later than January 1, 2006. The report should  
25 include, but need not be limited to, recommendations on methods  
26 to better manage the growth of maritime ports and address the  
27 environmental impacts of moving goods through those ports.

28 (c) The activities of the council pursuant to this section shall  
29 not be funded with appropriations from the General Fund.

30 SEC. 5. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution because  
32 a local agency or school district has the authority to levy service  
33 charges, fees, or assessments sufficient to pay for the program or  
34 level of service mandated by this act, within the meaning of Section  
35 17556 of the Government Code.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Brad Wagenknecht and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 28, 2007

Re: Update on Proposition 1B Highway Safety, Traffic Reduction, Air Quality, and  
Port Security Bond Act of 2006

RECOMMENDED ACTION:

None; informational item.

DISCUSSION

In November of 2006, the voters approved Proposition 1B. Essentially, this lets the State sell \$20 billion of general obligation bonds for projects to cut congestion, move goods more efficiently, improve the transportation system's security and safety, and most notably for the District, improve air quality. The bond language on the air quality program reads:

*"One billion dollars... shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. Funds made available by this paragraph are intended to supplement existing funds used to finance strategies and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the state's airports, seaports, and land ports of entry."*

While the Administration has released a plan for spending the majority of the bond funds, there has not yet been a concrete proposal from the Air Resources Board (ARB) on how to spend the air quality funds. ARB staff have to date indicated that reducing truck emissions will be a primary focus of the funds, although they also hope to spend some funds on reducing locomotive, harborcraft, and port off-road equipment, and 'cold ironing' (a strategy to reduce emissions from ships' production of electric power while docked). Given the magnitude of emissions from the Port of Oakland, District staff believe that an appropriate level of mitigation funds must be spent in this region.

A bill has been introduced in the Senate (SB 9, Lowenthal) to provide guidance on how the funds should be spent. At the time of this writing, however, the bill does not yet have content. On March 6, the Senate committees on Environmental Quality and Transportation and Housing will have a joint hearing to begin the legislative deliberation on how these funds are best spent.

In the other house, two bills have been introduced that would shape how these funds are spent. Assemblymember Arambula's AB 575 would prioritize funding projects in the South Coast and San Joaquin air basins. This would dramatically reduce funding to the Port of Oakland and the Bay Area. Assemblymember Karnette's AB 1208 also contains extensive criteria on the distribution of these funds. The general effect of her bill would be that the funding would go to cut emissions at the southern California ports, and Oakland would receive very little funding.

**AGENDA : 5**

There is also \$200 million in Proposition 1B funds for “schoolbus retrofit and replacement to reduce air pollution and to reduce children’s exposure to diesel exhaust.” Here again the bond was silent on how these funds are to be distributed.

**BUDGET CONSIDERATION/FINANCIAL IMPACT**

No direct impact.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chair Mark Ross and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 12, 2007

Re: Report of the Public Outreach Committee Meeting of March 19, 2007

RECOMMENDED ACTION

The Committee may recommend Board of Directors' approval for the contracts that assist with public outreach including the following:

Community Outreach - Community Focus not to exceed \$180,000;  
Advertising Design and Production – O'Rorke not to exceed \$400,000; and  
Media Relations and Employer Program – Allison & Partners not to exceed \$780,000.

BACKGROUND

The Public Outreach Committee will meet on Monday, March 19, 2007 and receive the attached reports:

- A) Recommendations for Contractors for the Public Outreach Programs;
- B) Spare the Air Tonight 2006/2007 – Wintertime outreach; and
- C) 2007 Spare the Air – Summer outreach campaign update.

Chairperson Kwok will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The funding for the public outreach activities conducted from March 2007 through June 30, 2007 was included in the current budget. Activities after July 1, 2007 will be included in the FY 2007/2008 budget. The funding for the activities covered by the Public Outreach Program contracts comes from three sources. Federal funding includes a \$1 million Congestion Mitigation Air Quality (CMAQ) grant. Local funding is through the Transportation Fund for Clean Air (TFCA) program. The remaining portion of the funds is from General Reserves.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Romaidis  
Reviewed by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Kwok and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2007

Re: Recommendations for Contractors for Public Outreach Programs

RECOMMENDED ACTION

Consider recommending Board of Directors' approval for the contracts that assist with public outreach including the following:

- Community Outreach - Community Focus not to exceed \$180,000
- Advertising Design and Production - O'Rorke not to exceed \$400,000
- Media Relations and Employer Program - Allison & Partners not to exceed \$780,000

BACKGROUND

The Air District's Outreach and Incentives Division relies on contractors to assist with various aspects of its public affairs and outreach programs. The Division recently completed a Request for Proposal (RFP) process to solicit responses for three (3) contracts: Community Outreach, Advertising Design and Production, and Media Relations and Employer Program.

- **Community Outreach:** To continue to manage eight resource teams comprised of representatives of environmental groups, businesses, public agencies, environmental and health organizations, and other interested parties to achieve specific Air District goals.
- **Advertising Design and Production:** To develop professional quality broadcast and print advertising/educational materials for a variety of District programs.
- **Media Relations and Employer Program Management Services:** To provide media relations services and employer program management services and promote agency activities.

DISCUSSION

RFPs were released on February 1, 2007 and responses were due on February 13, 2007. On that date, three responses were received for both the Community Outreach and the Media Relations and Employer Program RFPs. Since only one response was received for the Advertising Design and Production RFP, staff re-released the RFP from February 20<sup>th</sup> through February 26<sup>th</sup>. A total of two proposals were received for the Advertising Design and Production RFP.

This year the Division has streamlined the contracts to save money and provide greater flexibility in contractor services to include climate change and wood smoke outreach. The contracts will have a term of twelve months, which may be extended for a second term of twelve months at the District’s sole discretion. After evaluating proposals, conducting interviews and checking references, staff recommends the Board approve the following contracts:

**Community Outreach – Community Focus** has experience facilitating eight community based teams in the Bay Area. They have demonstrated experience working with Bay Area grassroots teams to form partnerships around a variety of issues. Staff recommends that Community Focus be awarded the Community Outreach contract (see Table 1).

**Advertising Design and Production - O’Rorke** has a solid background in social marketing and advertising. They have experience working with local government agencies to produce television, radio and print advertisements. Staff recommends that O’Rorke be awarded the Advertising Design and Production contract (see Table 2).

**Media Relations and Employer Program Management Services - Allison & Partners** has strong expertise in media relations, an extensive network of media contacts, and direct experience recruiting employers and schools. Staff recommends that Allison & Partners be awarded the Media Relations and Employer Program Management Services contract (see Table 3).

EVALUATION

**Creative Criteria/Proposal.** This category evaluated the responsiveness of the proposal clearly stating an understanding of the work to be performed and comprehensiveness of the proposal to address the objective. This category also evaluated the overall experience and accomplishments of the consulting team and project management staffing.

**Cost Proposal.** Costs were evaluated for adequacy in relation to the outlined scope of the project.

**Green Operating Practices and Local Businesses.** The District supports green operating practices and local businesses and gives a preference to local businesses engaged in green business practices. Proposals were evaluated to determine the extent of bidder’s commitment to environmentally sound operational practices.

The scoring and total points for each of the RFP’s criteria is contained in the following tables.

**Table 1  
Community Outreach Services**

<b>Evaluative Criteria</b>	<b>PMC</b>	<b>Techlaw</b>	<b>Community Focus</b>
Proposal ( 25 points)	12.5	19.5	23
Community Outreach Expertise (25 points)	19	18.5	21.5
Project Management Staffing (15 points)	11	11	11.5
Cost Proposal (25 points)	13	16	17.5
Green Operating Practices (5 points)	2.5	3.5	4
Local Businesses (5 points)	2.5	3	4.5
<b>Total Points</b>	<b>60.5</b>	<b>71.5</b>	<b>82</b>

**Table 2**  
**Advertising Design and Production Services**

<b>Evaluative Criteria</b>	<b>O'Rorke, Inc</b>	<b>Gigantic Idea Studio</b>
Proposal (25 points)	23	10
Creative Expertise (15 points)	14	6
Project Management Staffing (10 points)	9	5.5
Previous Experience (10 points)	9.5	5
Cost Proposal (30 points)	25	25
Green Operating Practices (5 points)	5	3.5
Local Businesses (5 points)	3.5	3.25
<b>Total Points</b>	<b>89</b>	<b>58.25</b>

**Table 3**  
**Media Relations and Employer Program Management Services**

<b>Evaluative Criteria</b>	<b>O'Rorke, Inc</b>	<b>Allison &amp; Partners</b>	<b>Fleishman Hillard</b>
Proposal (25 points)	22	23	16.5
Media Expertise (15 points)	12	13	9.5
Project Management Staffing (10 points)	5.5	8.5	7
Previous Experience (10 points)	8	8.5	7
Cost Proposal (30 points)	21	27.5	23.5
Green Operating Practices (5 points)	5	4.5	3.5
Local Businesses (5 points)	3.5	3.5	3
<b>Total Points</b>	<b>79</b>	<b>88</b>	<b>70</b>

**BUDGET CONSIDERATION/FINANCIAL IMPACT**

Funding for activities conducted from March 2007 through June 30, 2007 was included in the current budget. Activities after July 1, 2007 will be included in the FY 2007/08 budget. The funding for the activities covered by these contracts comes from three sources. Federal funding includes a \$1 million Congestion Mitigation Air Quality (CMAQ) grant. Local funding is through the Transportation Fund for Clean Air (TFCA) program. The remaining portion of the funds is from General Revenues.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Karen Schkolnick  
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Kwok and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2007

Re: Spare the Air Tonight 2006/2007 – Wintertime Outreach Program Summary

RECOMMENDED ACTION

For information only.

BACKGROUND

Staff will present a summary of the Air District's wintertime outreach campaign. The campaign began on November 20, 2006 and ended on February 16, 2007. During this season the District issued 30 Spare the Air Tonight advisories, the highest number on record.

DISCUSSION

The US EPA adopted more stringent Particulate Matter (PM<sub>2.5</sub>) standards last September, lowering the national 24-hour standard from 65 micrograms/m<sup>3</sup> down to 35 micrograms/m<sup>3</sup>. In response to this more protective health-based standard, and sustained periods of dry and cold weather, the District issued a total of 30 Spare the Air Tonight advisories. Preliminary monitoring data reports 27 exceedances of the revised national 24-hour health-based PM<sub>2.5</sub> standard.

The Outreach and Incentives Division conducted outreach efforts to increase public awareness about the sources of wintertime air pollution and to promote the Clean Air Choices individuals can make to protect air quality.

News Media

The campaign generated approximately 91 print and 240 television and radio stories, resulting in an estimated 16,677,701 media impressions with a comparable ad value of \$558,880. This was the most media coverage received in the history of the Spare the Air Tonight program. The outreach program also targeted asthma and health clinics and employer partners.

Paid and Free Advertising

- Kick-off event in partnership with the Golden State Warriors held on November 20<sup>th</sup> with more than 60 radio spots airing on KNBR November through March.
- Video commercial featuring Executive Officer aired 312 times on local cable stations.
- Thirty-one radio ads ran on KLLC-FM and Star FM and 40 spots on KMKY-AM during Thanksgiving week.
- Silicon Valley 101 billboard in December and January and a banner placed on Treasure Island in January.

### Surveys

Surveys were conducted each day after a Spare the Air Tonight episode. This season, 988 surveys were completed. The purpose of the survey was to gauge the public's attitude and behavior with respect to burning wood, their awareness of the Spare the Air Tonight program, and the impact the program has had on awareness, opinions and behavior relevant to particulate matter, burning wood, and air quality. The following are highlights of the survey results:

- 74 percent of Bay Area adults perceive that there are negative health effects associated with breathing wood smoke.
- 24 percent of respondents indicated that their neighborhood periodically experiences air pollution from wood smoke.
- 45 percent of households in the District contain at least one wood burning device.
- 50 percent of all households that burn wood indicate that they primarily do so for ambiance rather than heat.
- Nearly 9 percent of households with at least one wood-burning heating device were "reducer" households. These reported not burning any wood or a reduction in burning wood this winter because of the Spare the Air Tonight campaign/air quality information, or because of health concerns paired with having encountered Spare the Air Tonight campaign information.
- 56 percent of respondents had heard, read or seen a news story, advertisement, and/or public service announcement about Spare the Air this winter.
- The proportion of those who had a favorable opinion (as opposed to a neutral or a negative opinion) climbed to 55 percent for the District and 72 percent for the Spare the Air Tonight campaign as compared with the 2005 results of 51 percent and 64 percent, respectively.

### Air Alerts and Website

- Historically, AirAlerts registration decrease in the wintertime. However, during this season AirAlerts reached an all time high with over 47,000 registrants, an increase from the 2006 summertime count of 40,000.
- The [www.sparetheair.org](http://www.sparetheair.org) web page was updated following each advisory.

### BUDGET CONSIDERATIONS/FINANCIAL IMPACT

Funding for the campaign was included in the 2006-07 budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Luna Salaver  
Reviewed by: Karen Schkolnick/Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Kwok and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2007

Re: 2007 Spare the Air - Summer Campaign Update

RECOMMENDED ACTION

For information only.

BACKGROUND

The Spare the Air program was established in 1991 to educate the public about air pollution and to promote long-term individual behavior changes that improve air quality. The 2006 Spare the Air campaign was the most successful to date in terms of public recognition and public participation. In addition, the expansion of the free transit program in 2006 to include 26 operators and six full free transit days provided an opportunity to explore the region-wide impact of the free transit incentive.

Suggestions for future improvement were received from the transit partners, media, public and District Board members. In consideration of this stakeholder feedback, staff has developed the following program refinements for 2007:

- Focus message on promotion of clean air choices and positive, long-term behavior change;
- Increase program measurement to begin the process of estimating long-term behavior change and assessing long-term program impact;
- Expand program to include private partners; and
- Refine free transit incentive to include four (4) full-day rides on regional bus systems and the same number of partial-day commutes on BART, Caltrain and the ferries.

DISCUSSION

The program cost-effectiveness reported by the Metropolitan Transportation Commission (MTC) was \$410,800/ton compared to \$60,000 to \$100,000/ton reported by the District. This large discrepancy originated in a difference in methodology used by each agency: MTC's methodology only covers emission reductions for the six days of free transit, while the District's includes on-going reductions estimated over a twelve-month period. The cost-effectiveness further improves to \$7,300 to \$12,000/ton when only District TFCA-funding is considered.

Staff proposes to increase the frequency of surveying to include non-Spare the Air days. Other measurement tools will also be employed to ensure that data collection is sufficient for beginning to

estimate long-term behavior change, which is the main objective of the Spare the Air program, and more accurately determining cost-effectiveness.

For the 2007 season, MTC has approved \$7.5 million in funding for the free transit incentive program. While the bus operators prefer a full day of free rides, Caltrain, BART and the ferries experienced operational and security problems (unruly youth and delayed trains and ferries) that they associated with full-day free rides. Caltrain, BART and ferries have opted to offer free transit for partial-days. To cover the remaining cost of four days of free rides (full-day and partial-day), the District will need to provide \$1.0 million in TFCA funds.

Staff is exploring opportunities to partner with the private sector and pursue incentives and funding to augment this summer's and future campaigns.

#### BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for Spare the Air activities from March 2007, through June 30, 2007, was included in the current budget. Activities after July 1, 2007, will be included in the proposed FY 2007/08 budget. The largest source of funding for the program comes from the Congestion Mitigation Air Quality (CMAQ) program. Federal funding includes a \$1 million CMAQ grant which is administered locally by Caltrans on behalf of the Federal Highway Administration. Local funding is through the Transportation Fund for Clean Air (TFCA) program. The remaining non-motor vehicle portion of the funds is from General Revenues.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Luna Salaver  
Reviewed by: Karen Schkolnick/Jack M. Colbourn