



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

April 5, 2006

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:45 a.m. in the 7th 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' MEETING A G E N D A

WEDNESDAY
APRIL 5, 2006
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance
Commendations/Proclamations

Chair, Gayle B. Uilkema
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.

CLOSED SESSION

Conference with Legal Counsel

Significant Exposure to Litigation:

Pursuant to Government Code Section 54956.9(b), a need exists to meet in closed session to discuss significant exposure to litigation regarding two matters.

CONSENT CALENDAR (ITEMS 1 - 6)

Staff/Phone (415) 749-

- Minutes of March 15, 2006 Meeting
M. Romaidis/4965
mromaidis@baaqmd.gov
- Communications
Information only
J. Broadbent/5052
jbroadbent@baaqmd.gov
- Quarterly Report of the Clerk of the Boards
J. Broadbent/5052
jbroadbent@baaqmd.gov
- Report of District Personnel on Out of State Business Travel
J. Broadbent/5052
jbroadbent@baaqmd.gov
In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the attached memoranda lists District personnel who traveled on out-of-state business.
- Approval of Proposed Amendments to the Air District's Administrative Code Division I, Sections 1– 6: Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will consider approval of proposed amendments to the Administrative Code Division I, Sections 1-6: Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board as noticed and discussed at the March 15, 2006 meeting.

6. Approval of Acceptance of Disclosure of Costs for Optional Retirement Benefit as Required by Government Code Section 7507 **J. Broadbent/5052**

jbroadbent@baaqmd.gov

The Board of Directors will consider acceptance of the disclosure of costs resulting from implementation of an optional retirement benefit as required by Government Code Section 7507.

COMMITTEE REPORT AND RECOMMENDATIONS

7. Report of the **Budget and Finance Meeting** of February 22, 2006

CHAIR: CHRIS DALY

J. Broadbent/5052

jbroadbent@baaqmd.gov

Action(s): The Committee recommends Board of Director approval of an amendment to the FY 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$100,000, and by correspondingly increasing the Professional Services & Contracts budget for Climate Protection (Program 608) by \$100,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$100,000 for a Greenhouse Gas Mitigation Study.

8. Report of the **Stationary Source Committee Meeting** of March 27, 2006

CHAIR: JOHN SILVA

J. Broadbent/5052

jbroadbent@baaqmd.gov

PUBLIC HEARING

9. Public Hearing to Consider Proposed Amendments to Regulation 12, Rule 12: Flares at Petroleum Refineries and Approval of the Filing of a California Environmental Quality Act (CEQA) Notice of Exemption

H. Hilken/4642

hhilken@baaqmd.gov

The proposed amendments to Regulation 12, Rule 12 would require a causal analysis of flaring at rates lower than the current 500,000 cubic feet per day of vent gas if emissions of sulfur dioxide exceed 500 pounds per day.

OTHER BUSINESS

10. Report of the Executive Officer/APCO
11. Report of the Chair
12. 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)

13. Time and Place of Next Meeting - 9:45 a.m., Wednesday, April 19, 2006 - 939 Ellis Street, San Francisco, CA 94109
14. Adjourn

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

(415) 749-4965
FAX: (415) 928-8560
BAAQMD homepage:
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 Clerk's 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: Chair Uilkema and Members of the Board of Directors
From: Jack P. Broadbent
Executive Officer/APCO
Date: March 23, 2006
Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of March 15, 2006.

DISCUSSION

Attached for your review and approval are the draft minutes of the March 15, 2006 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 – March 15, 2006

Call To Order

Opening Comments: Chair Gayle B. Uilkema called the meeting to order at 9:46 a.m.

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

Roll Call: Present: Gayle B. Uilkema, Chair, Harold Brown, Roberta Cooper, Chris Daly, Erin Garner, Scott Haggerty, Jerry Hill, Liz Kniss (10:01 a.m.), Patrick Kwok, Nate Miley, Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt (10:02 a.m.), Brad Wagenknecht.

Absent: Mark DeSaulnier, Dan Dunnigan, Jake McGoldrick.

Commendations/Proclamations: There were none.

Swearing in of New Board Members: The following Board members were sworn in: Vice Mayor Yoriko Kishimoto of the City of Palo Alto, representing Santa Clara County; Mayor Janet Lockhart of the City of Dublin, representing Alameda County; and Councilperson Carol Klatt of Daly City, representing San Mateo County

Public Comment Period: – The following individuals spoke on issues relating to the Pacific Steel Casting plant in Berkeley, California:

Ignacio De La Fuente
Glass, Molders, Int'l. Union AFL-CIO
Oakland, CA 94601

Willi Paul
Clean Air Coalition.net
Berkeley, CA

Brad Smith
City of Berkeley
Berkeley, CA 94702

David Schroeder
West Berkeley Alliance for Clean Air & Safe Jobs
Berkeley, CA 94702

Peter Guerrero
Berkeley, CA 94702

L A Wood
Berkeley, CA

Martin Borque
Ecology Center
Berkeley, CA 94703

Toni Stein, Ph.D.
West Berkeley Alliance
Menlo Park, CA

Linda Gallagher-Brown
Berkeley, CA 94703

Horst "Joe" Emmerichs
Pacific Steel Casting Co.

Bradley Angel
Greenaction for Health & Environmental
Justice
San Francisco, CA 94102

Director Liz Kniss arrived at 10:01 a.m. and Director Pamela Torliatt arrived at 10:02 a.m. (During Mr. Guerrero's presentation).

Jack Broadbent, Executive Officer/APCO briefly discussed the work being done at the plant, the settlement of the notices of violations, the health risk assessment being done, and the community meetings held to date. Pacific Steel Casting is also working on an Odor Management Plan. Installation of the control devices should be completed in October 2006.

Director Ross requested that the Board members be sent copies of the settlement agreement.

Chair Uilkema referred the matter to staff, with the direction that staff prepare a written brief or report for future Board meetings.

Consent Calendar (Items 1 – 5)

1. Minutes of February 15, 2006 Meeting
2. Communications. Correspondence addressed to the Board of Directors. For Information Only.
3. Monthly Activity Report – *Report of Division Activities for the month of February 2006.*
4. Report of District Personnel on Out of State Business Travel

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the memoranda in the meeting packet lists District personnel who traveled on out-of-state business.

5. Set Public Hearing for April 5, 2006 to Consider Proposed Amendments to Regulation 12, Rule 12: Flares at Petroleum Refineries and Approval of the Filing of a California Environmental Quality Act (CEQA) Notice of Exemption

The proposed amendments to Regulation 12, Rule 12 would require a causal analysis of flaring at rates lower than the current 500,000 cubic feet per day of vent gas if emissions of sulfur dioxide exceed 500 pounds per day.

Board Action: Director Cooper moved approval of the Consent Calendar; seconded by Director Hill; carried unanimously without objection.

Committee Report and Recommendations

6. Report of the Executive Committee Meeting of February 16, 2006

Action(s): The Committee recommended noticing of proposed amendments to the Administrative Code Division 1, Sections 1 – 6; Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council and Section 8: Hearing Board.

Chair Uilkema presented the report and stated that the Committee met on Thursday, February 16, 2006 and received and filed the Reports of the Hearing Board and Advisory Council.

Legal Counsel provided an overview of AB 1234 (Salinas) compliance requirements with regard to governing board members of California special districts. The bill is effective as of January 1, 2006. The overview included the requirements for payment of compensation and reimbursement of expenses and ethics training.

The Committee discussed and considered possible revisions to several sections of the Administrative Code relating to the Board of Directors, Advisory Council, and Hearing Board. Direction was given to Staff on proposed changes to the Administrative Code and will be discussed today under agenda item 11.

Staff provided an update on implementation of internal business processes and controls that have taken place since April 2005. The Committee requested that in six months, the Budget and Finance Committee review the processes and controls implemented and make a recommendation to the Board, if necessary, on any issues or changes needed.

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

Board Action: Chair Uilkema moved that the Board of Directors approve the report of the Executive Committee; seconded by Director Miley; carried unanimously without objection.

7. Report of the Ad Hoc Climate Protection Meeting of February 23, 2006

Director Torliatt presented the report and stated that the Ad Hoc Committee on Climate Protection met on Thursday, February 23, 2006.

Staff gave a presentation on the initiatives of the Air District's Climate Protection Leadership Program. The Program initiatives include the following:

- A Climate Protection Summit.
- Green house gas (GHG) reductions from stationary sources.
- A Bay Area GHG emission inventory.
- Promotion of energy efficiency.
- In-house GHG emissions reductions.
- Green schools.

Various Board members' comments were expressed.

Staff provided a status report on preparations for the climate protection summit to be hosted by the Air District in mid-2006.

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

Board Action: Director Torliatt moved that the Board of Directors approve the report of the Ad Hoc Committee on Climate Protection; seconded by Director Cooper; carried unanimously without objection.

8. Report of the Personnel Committee Meeting of February 28, 2006

Action(s): The Committee recommended Board of Director approval of the following:

- A) *Reassignment of Advisory Council member to the Transportation Category; and*
- B) *Appointment of candidates to fill eleven (11) expired terms of office on the Advisory Council effective March 15, 2006 – December 31, 2007.*

Director Kwok presented the report and stated that the Committee met on February 28, 2006 to conduct an interview of a candidate for reassignment to the transportation category on the Advisory Council and to conduct interviews of candidates to fill eleven categories that have expired terms of offices on the Advisory Council. The Committee recommends that the Board of Directors approve the following:

1. Reassign Louise Bedsworth to the Transportation Category to fill an unexpired term of office ending December 31, 2006.
2. Approve the following appointments to the Advisory Council in their respective category:

Janice Kim	Public Health Agency
Brian Zamora	Public Health Agency
Jeff Bramlett	Park and Recreation
Fred Glueck	General Contractor
William Hanna	Agriculture
Ken Blonski	Regional Park District
Edward Proctor	Organized Labor
Harold Brazil	Public Mass Transportation
Kraig Kurucz	Industry
Karen Farnkopf	Conservation Organization
Emily Drennen	Conservation Organization

The appointments are for a two-year term of office ending December 31, 2007.

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

Board Action: Director Kwok moved that the Board of Directors approve the Committee recommendations for the reassignment of Louise Bedsworth to the Transportation category on the Advisory Council and appointment of the 11 candidates, as stated, in their respective categories on the Advisory Council; seconded by Director Kniss; carried unanimously without objection.

9. Report of the Budget and Finance Committee Meeting of March 1, 2006

Action(s): The Committee recommended that the Board of Directors approve the following:

- A) *Amend the Fiscal Year 2005/06 Budget by increasing the Penalties and Settlements General Fund Revenue by \$132,000, increase the Capital Outlay budget for Building Maintenance by \$132,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$82,000; and*
- B) *Amend the Fiscal Year 2005/06 Budget by increasing the Penalties and Settlements General Fund Revenue by \$120,000, as well as increase the Capital Outlay budget for the Building Maintenance Program by \$120,000.*

Director Daly presented the report and stated that the Committee met on Wednesday, March 1, 2006 and staff presented the second quarter financial report.

The Committee received an overview of the State and Federal budgets and their potential impacts on the Air District.

Staff presented reports on the ceiling replacement and asbestos abatement for the HVAC replacement; and on carpet and furniture acquisition. The Committee recommends that the Board of Directors approve an:

- o Amendment of the fiscal year 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$132,000 and correspondingly increase the Capital Outlay budget for Building Maintenance (Program 102) by \$132,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$82,000; and also
- o Amend the fiscal year 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$120,000 and correspondingly increasing the Capital Outlay budget for Building Maintenance (Program 102) by \$120,000.

The next meeting of the Committee is scheduled for 9:45 a.m., Wednesday, March 22, 2006.

Board Action: Director Daly moved that the Board of Directors approve the recommendations and report of the Budget and Finance Committee; seconded by Director Kniss; carried unanimously without objection.

10. Report of the Mobile Source Committee Meeting of March 13, 2006

Action(s): The Committee recommended Board of Director approval of the following:

- A) *Carl Moyer Program grant allocation of \$2,667,676 in Carl Moyer Program (CMP) funds for eligible projects listed Attachment 1-A to Committee agenda item 4;*
- B) *Allocation of up to \$13.2 million in Mobile Source Incentive Fund (MSIF) revenues fro eligible projects listed in Attachment 1-A to Committee agenda item 4;*
- C) *Authorization for the Executive Officer to enter into funding agreements with recipients of grants for the projects listed in Attachment 1-A to Committee agenda item 4; and*
- D) *Amendment to the Transportation Fund for Clean Air (TFCA) Marin County Program Manager expenditure program.*

Director Smith presented the report and stated that The Committee met on Monday, March 13, 2006. Staff presented a report on the Carl Moyer Program grant allocation and the Committee recommends Board of Director approval of the following:

1. Allocation of \$2,667,676 in Carl Moyer Program funds for projects listed in Attachment 1-A to Committee agenda item 4;
2. Approval of up to \$13.2 million in Mobile Source Incentive Fund revenues for projects listed in Attachment 1-A to Committee agenda item 4; and
3. Authorization for the Executive Officer/APCO to enter into funding agreements with grant recipients listed in Attachment 1-A to Committee agenda item 4.

Staff presented a report on the statewide methodology for allocating Carl Moyer Program funds to the Bay Area and other regions. The Committee provided direction to staff on suggested changes to the allocation formula for the Carl Moyer Program funds.

The Committee received a report on an amendment to the Transportation Fund for Clean Air (TFCA) Marin County Program Manager Expenditure Program for fiscal year 2005/06. The Committee recommends Board of Director approval of the following:

- An amendment to the Marin County Program Manager TFCA fiscal year 2005/06 expenditure program to award \$159,037 to the Town of Fairfax for the Safe Routes to Schools Pedestrian/Bicycle Bridge and Sidewalk Project.

Staff presented a report to the Committee on the biodiesel feasibility study and pilot project.

The next meeting of the Committee is scheduled for 9:30 a.m., Monday, April 10, 2006.

Board Action: Director Smith moved that the Board of Directors approve the recommendations and the report of the Mobile Source Committee; seconded by Director Torliatt; carried unanimously without objection.

Presentation

11. Assembly Bill 1234 Compliance Overview and Proposed Administrative Code Revisions

District Counsel provided an overview of AB 1234 compliance requirements and discussed the proposed Administrative Code revisions addressing AB 1234 as proposed by the Executive Committee.

Brian Bunger, Legal Counsel, presented the report and provided an overview of AB 1234 and stated there are two key aspects of the bill. The two key aspects of the bill are the requirements for payment of compensation and reimbursement of expenses; and ethics training. Those entities subject to the Brown Act are subject to AB 1234.

Mr. Bunger reviewed and discussed the following:

- Affected parties,
- Payment of compensation,
- Reimbursement for expenses,
- Specific restrictions on reimbursement,

- Recordkeeping, and
- Potential penalties for noncompliance.

Mr. Bunger also provided an overview of the required ethics training and discussed the content of the training, and the timing and deadlines. There was discussion on scheduling a training session for the Board of Directors, Advisory Council and Hearing Board members.

Mr. Bunger reviewed the suggested Administrative Code revisions under Section 6.10 – Committee Procedure, noting that the language regarding non-committee members has been deleted. After a discussion on alternates for the Standing Committees, Chair Uilkema requested staff prepare a proposal regarding the use alternate Committee members and that the proposal be presented at the next Board Executive Committee meeting.

Mr. Bunger reviewed Section 1.2 A – Compensation-Meeting Attendance and Section 1.2 B – Limits on Compensation for Meeting Attendance. Mr. Bunger stated that Board members are to provide a report of meetings they have attended at the Air District's expense at the next regular Board meeting.

There was discussion from the Board regarding the last sentence under Section 1.2 B regarding Board members not receiving compensation for attendance at meetings of Committees to which they are not assigned.

In response to comments from Director Ross, Mr. Broadbent stated that the District will seek, through a city or county, an Attorney General's opinion on the matter of participation of Board members in meetings of Committees to which they are not assigned.

Director Haggerty moved that the Board approve the suggested Administrative Code revisions with the deletion of the last sentence under Section 1.2 B. Limits on Compensation for Meeting Attendance; seconded by Director Torliatt. During discussion, Director Daly requested that the motion be bifurcated and that the issue of the deletion of the last sentence be a separate motion. Chair Uilkema so ordered.

Board Actions: Director Haggerty moved that the Board approve the deletion of the last sentence under Section 1.2 B. Limits on Compensation for Meeting Attendance; seconded by Director Wagenknecht. The motion passed on the following roll call vote:

AYES: Cooper, Garner, Haggerty, Hill, Kishimoto, Klatt, Kwok, Lockhart, Miley, Shimansky, Silva, Smith, Torliatt, Wagenknecht, Uilkema.

NOES: Daly, Ross.

ABSENT: Brown, DeSaulnier, Dunnigan, Kniss, McGoldrick.

Director Haggerty moved that the Board of Directors give notice of the suggested Administrative Code revisions for adoption at the next subsequent meeting; seconded by Director Wagenknecht; carried unanimously without objection.

Other Business

12. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following:
 1. The Spare the Air Tonight program has ended and none were called in the District this year.
 2. The District is gearing up for the Summer time Spare the Air program and is working in conjunction with the Metropolitan Transportation Commission (MTC) on the program.
13. Report of the Chair - Chair Uilkema stated that she had no report.
14. Board Members' Comments – Director Haggerty reported on the Special District and Local Government Institute seminar he attended in February 2006. The seminar included a workshop on the Brown Act and conflict of interest where Director Haggerty was certified in the conflict of interest and ethics training.
15. Time and Place of Next Meeting – 9:45 a.m., Wednesday, April 5, 2006 – 939 Ellis Street, San Francisco, CA 94109
16. Adjournment – The meeting adjourned at 11:38 a.m.

Mary Romaidis
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chair Uilkema and Members of the Board of Directors
From: Jack P. Broadbent
Executive Officer/APCO
Date: March 23, 2006
Re: Board Communications Received from March 15, 2006 through April 4, 2006

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications received by the Air District from March 15, 2006 through April 4, 2006, if any, will be at each Board member's place at the April 5th Regular Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
 Memorandum

TO: Chair Uilkema and Members of the Board of Directors
 FROM: Mary Ann Goodley
 Executive Office Manager
 DATE: March 28, 2006
 RE: Quarterly Report of the Clerk of the Boards: January 1 – March 31, 2006

RECOMMENDED ACTION

This report is provided for information only.

DISCUSSION

Listed below is the status of minutes for the Board of Directors and Advisory Council and activities of the Hearing Board for the first quarter of 2006:

Board of Directors

<u>Meeting Type</u>	<u>Meeting Date</u>	<u>Status of Minutes</u>
Regular Meeting	January 4	Minutes Approved
Regular Meeting and Retreat	January 18	Minutes Approved
Regular Meeting	February 1	Minutes Approved
Regular Meeting	February 15	Minutes Approved
Regular Meeting	March 15	Minutes Completed/Pending Approval
Executive Committee	February 16	Minutes Completed/Pending Approval
Budget & Finance Committee	March 1	Minutes Approved
Budget & Finance Committee	March 22	Minutes Completed/Pending Approval
Public Outreach Committee	January 23	Minutes Completed/Pending Approval
Mobile Source Committee	January 12	Minutes Approved
Mobile Source Committee	March 13	Minutes Completed/Pending Approval
Stationary Source Committee	March 27	Minutes Pending
Legislative Committee	January 30	Minutes Completed/Pending Approval
Personnel Committee	February 28	Minutes Completed/Pending Approval
Ad Hoc Committee on Climate Protection	February 23	Minutes Completed/Pending Approval

Advisory Council

<u>Meeting Type</u>	<u>Meeting Date</u>	<u>Status of Minutes</u>
Regular Meeting and Retreat	January 11	Minutes Approved
Regular Meeting	March 22	Minutes Pending
Executive Committee	January 11	Minutes Approved
Executive Committee	March 22	Minutes Pending
Public Health Committee	February 14	Minutes Completed/Pending Approval
Joint Technical & Air Quality Planning Committees	February 7	Minutes Completed/Pending Approval

Hearing Board

1. During the Period January – March 2006, the Hearing Board processed and filed three Applications for Variance, one Emergency Variance, one Appeal and one Accusation and Request for Stipulated Conditional Order for Abatement.
2. The Deputy Clerk attended and took minutes at a total of six hearings and other discussions at the District facility.
3. A total of \$ 280.25 was collected in excess emission fees.
4. On February 16, 2006 the Hearing Board presented its Quarterly Report for the period October-December 2005 to the Board Executive Committee.
5. On March 2 & 3, 2006 the Deputy Clerk attended the CARB Advanced Hearing Board Workshop in San Diego.
6. On March 7-9, 2006 Hearing Board member Julio Magalhães, Ph.D., attended the AWMA's Global Warming & Climate Change Conference in San Francisco.

Respectfully submitted,

Mary Ann Goodley
Executive Office Manager

FORWARDED _____

BAY AREA AIR QUALITY MANGEMENT DISTRICT

Memorandum

To: Chair Gayle B. Uilkema and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2006

Re: District Personnel on Out-of-State Business Travel

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the following District personnel have traveled on out-of-state business.

DISCUSSION

Phil Martien, Senior Atmospheric Modeler, and David Fairley, Statistician attended a meeting with the Desert Research Institute in Reno, NV on March 7, 2006.

Peter Hess, Deputy Air Pollution Control Officer, attended a meeting of the Air & Waste Management Association (A&WMA) held in New Orleans, LA March 14 – 17, 2006. All expenses were paid by the A&WMA

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Michael White

Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chair Gayle B. Uilkema and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 27, 2006

Re: Consider Approval of Proposed Amendments to the Administrative Code,
Operating Policies and Procedures for the Board of Directors Division I:
Sections 1 – 8

RECOMMENDED ACTION

Approve proposed amendments to the District's Administrative Code, Division I: Sections 1 – 6 with respect to the Operating Policies and Procedures of the Board of Directors and Section 7 with regard to the Advisory Council, and Section 8 with regard to the Hearing Board.

BACKGROUND

The Executive Committee at its meeting of February 16, 2006 held a discussion on Assembly Bill 1234 which became effective January 1, 2006, requiring governing board members of special districts to have a written policy to compensate board members for attendance at events beyond board meetings, committee meetings and conferences.

Assembly Bill 1234 requires the District to also have policies adopted by the Board specifying the types of occurrences that qualify a member of the Board, Advisory Council or Hearing Board to receive reimbursement for travel, meals, lodging and other actual expenses. The expense report requirement in AB 1234 is currently met by the forms documenting expenses provided to, and filled out by, members of the Board, Advisory Council and Hearing Board and retained by the District.

The Board of Directors at its meeting of March 15, 2006 noticed and reviewed the attached proposed amendments to the Administrative Code.

DISCUSSION

Administrative Code Section 14.1 Amendments Mechanism requires the noticing of proposed amendments at a preceding meeting of the Board of Directors before adoption can take place.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Proposed Amendments to Division I, Section 1.-8

SECTION 1 BOARD OF DIRECTORS, MEETINGS

1.1 MEETING DATES. (Revised 11/06/2002)

Regular meetings of the Bay Area Air Quality Management District Board of Directors shall be held on the first and third Wednesday of each month, beginning at the hour of 9:45 a.m., with either meeting being subject to cancellation by the APCO with the concurrence of the Chairperson if there is insufficient District business to warrant such meeting. When the day, or the day preceding the day, fixed for a regular meeting of the District Board falls upon a legal holiday, that meeting shall be held at the same hour seven (7) days later not on a holiday.

1.2 A. COMPENSATION - MEETING ATTENDANCE.

Board members shall receive compensation of one hundred dollars (\$100) for each day attending meetings of the District Board and of Board Committees, or upon authorization of the Board while on official business of the District, but such compensation shall not exceed six thousand dollars (\$6,000) in any one fiscal year. Board members may receive compensation for attendance at the following types of meetings other than Board and Committee meetings:

- (a) educational seminars designed to improve officials' skill and information levels;
- (b) meetings of regional, state and national organizations whose activities affect the Air District's interest with a District staff member in attendance;
- (c) Air District events; and
- (d) meetings to discuss community and/or business concerns with regard to air quality in the region.

Report(s) on any meetings that members have attended at the Air District's expense will be given at the next regular board meeting.

To the extent a meeting for which compensation is available includes a meal, a Board member may be reimbursed for the meal expenditure as long as the Board member complies with the limits and reporting requirements of local, state and federal law and the meal expenditure is reasonable and necessary.

1.2 B. LIMITS ON COMPENSATION FOR MEETING ATTENDANCE

Board members shall not receive compensation for attendance at meetings of any type held outside the State of California unless compensation for attendance at such meeting(s) is approved by the Board in an open session prior to attendance at the meeting.

Unless excused by the Chairperson, a Board member shall receive such compensation for attending meetings of the Board only if:

- (a) the Board member arrives for the meeting within 30 minutes of the scheduled beginning of the meeting; and
- (b) the Board member misses no more than 30 minutes of the meeting plus, in the event a meeting continues beyond noon, the time between noon and adjournment.

1.3 BOARD MEETING LOCATION.

All regular meetings of the Board of Directors and all regular meetings of Board Committees shall be held at the offices of the District located at 939 Ellis Street, San Francisco, California, unless at a previous regular Board meeting or committee meeting some other place was designated.

1.4 SPECIAL MEETINGS.

Whenever the business of the District may require special meetings, in the opinion of the Chairperson of the Board of Directors or at the express written request of any three (3) members of the Board, such meetings shall be called. Whenever a special meeting shall be called, notice shall be given to each member of the Board of Directors at least twenty-four (24) hours in advance, and to others as required by law, stating the date and hour of the meeting and the purpose for which such meeting is called. No business shall be transacted thereat except such as is stated in the notice.

1.5 AGENDA.

All reports, communications, resolutions, contract documents or other matters to be submitted to the Directors shall be delivered to the APCO one (1) week prior to the Board meeting. The APCO shall thereupon arrange a list of such matters according to the order of business. The Clerk of the Boards shall furnish each Board Director with a copy of the same no later than the Friday prior to the meeting and as far in advance of the meeting as is feasible.

SECTION 2 BOARD OF DIRECTORS, OFFICERS - DUTIES

2.1 OFFICERS OF THE BOARD. (Revised 1/21/04)

The presiding officer of the Board is the Chairperson of the Board of Directors. The Chairperson, Vice Chairperson and Secretary shall, no later than the first meeting in December of each year, be elected by the Board of Directors and assume office January 1, (effective January 1, 2005). The Chairperson shall preserve order and decorum at regular and special meetings of the Board. The Chairperson shall state each question, shall announce the decision, shall decide all questions of order subject to an appeal to the Board. The Chairperson shall vote on all questions, last in order of the roll, and shall sign all ordinances and resolutions adopted by the District Board while the Chairperson presides. (see Section II-4.3)

In the event that the Chairperson is unable, for whatever reason, to fulfill his or her one-year term of office, the Vice-Chairperson shall succeed the Chairperson and the Secretary shall succeed the Vice-Chairperson. Section 2.3 below shall determine the filling of the Secretary vacancy. In any event, no Board Officer shall serve more than three (3) years in any one Board office (Chairperson, Vice-Chairperson, or Secretary).

OFFICERS OF THE BOARD. (Revised 10/1/03)

The presiding officer of the Board is the Chairperson of the Board of Directors. The Chairperson, Vice Chairperson and Secretary shall, no later than the first meeting in December of each year, be elected by the Board of Directors and assume office January 1, (effective January 1, 2005). The Chairperson shall preserve order and decorum at regular and special meetings of the Board. The Chairperson shall state each question, shall announce the decision, shall decide all questions of order subject to an appeal to the Board. The Chairperson shall vote on all questions, last in order of the roll, and shall sign all ordinances and resolutions adopted by the District Board while the Chairperson presides. (see Section II-4.3)

In the event that the Chairperson is unable, for whatever reason, to fulfill his or her one-year term of office, the Vice-Chairperson shall succeed the Chairperson and the Secretary shall succeed the Vice-Chairperson. Section 2.3 below shall determine the filling of the Secretary vacancy. In any event, no Board Officer shall serve more than three (3) years in any Board office.

2.2 CHAIRPERSON.

The Chairperson shall take the chair at the hour appointed for the meeting and call the District Board to order. In the absence of the Chairperson, the Vice-Chairperson shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson, the Vice-Chairperson shall relinquish the chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, or the Vice-Chairperson when the Chairperson is absent, the Board Secretary shall call the Board to order and serve as temporary Chairperson. Upon arrival of the Chairperson or Vice-Chairperson, the Secretary shall relinquish the Chair upon the conclusion of the business then pending before the Board. In the absence, or self-determined inability to act, of the Chairperson, Vice Chairperson or Secretary, members of the Board of Directors shall, by an order on the Minutes, select one of their members to act as temporary Chairperson. Upon the arrival or resumption of ability to act, the Chairperson or Vice-Chairperson shall resume the Chair, upon the conclusion of the business then pending before the Board.

2.3 VICE CHAIRPERSON.

If, for any reason, the Chairperson ceases to be a member of the Board, the Vice-Chairperson shall automatically assume the office of Chairperson and the Board Secretary shall automatically assume the office of Vice-Chairperson. If, for any reason, the Vice-Chairperson ceases to be a member of the Board, the Board Secretary shall automatically assume the office of Vice-Chairperson. In either eventuality, the Board Nominating Committee shall, upon the request of the Chairperson, make a recommendation at the Board meeting following such request to fill the office of Board Secretary. An election will then immediately be held for that purpose.

2.4 BOARD SECRETARY.

The Board Secretary shall be official custodian of the Seal of the District and of the official records of the District and shall perform such secretarial duties as may require execution by the Board of Directors. The Board Secretary may delegate any of these duties to the APCO, or to the Clerk of the Boards.

2.5 MEETING ROLL CALL.

Before proceeding with the business of the Board, the Clerk of the Boards shall call the roll of the members, and the names of those present shall be entered in the

Minutes. The names of members who arrive after the initial roll call shall be noted in the Minutes at that stage of the Minutes.

2.6 QUORUM.

A majority of the members of the Board constitutes a quorum for the transaction of business, and may act for the Board.

2.7 OFFICER ROTATION.

It is intended that the positions of Chairperson, Vice Chairperson, and Board Secretary be rotated among the members in a manner to assure participation in the affairs of the District from a wide representation of the membership. In making its recommendations, the Nominating Committee shall take into account such factors as representation by those members appointed by Boards of Supervisors, those members appointed by City selection committees, those members from large counties, and those from small counties.

SECTION 3 BOARD OF DIRECTORS, ORDER OF BUSINESS

3.1 PUBLIC MEETING.

All meetings of the Board of Directors shall be open to the public, except when in a closed session as permitted by the Brown Act.

3.2 ORDER OF BUSINESS.

The following shall be the ordinary Order of Business for meetings of the Board of Directors:

- (a) Roll Call
- (b) Public Presentation
- (c) Approval of Minutes of previous meeting plus consent calendar
- (d) The agenda items as prepared by the APCO
- (e) Special items may be introduced by a Board Member with the consent of a three-fourths vote of the Board Members present, if the requirements of the Brown Act are satisfied.

3.3 READING OF MINUTES.

Unless a reading of the Minutes of a previous meeting is requested by a member of the Board, such Minutes may be approved without reading if the APCO has furnished each member with an advance copy thereof per Section I-1.5.

3.4 COMMUNICATIONS TO THE BOARD.

The Clerk of the Boards shall furnish to the members of the Board and to the APCO a synopsis of communications received for consideration by the Board up to twenty-four (24) hours prior to the time scheduled for the meeting. Later communications may be considered as new business.

SECTION 4 BOARD OF DIRECTORS, CONDUCT OF BUSINESS

4.1 ROBERT'S RULES OF ORDER.

Robert's Rules of Order, Latest Edition, except where inconsistent with express provisions of law, this Code or other resolutions of the Board of Directors of the Bay Area Air Quality

Management District, shall govern the conduct of meetings of the Bay Area Air Quality Management District Board of Directors.

4.2 MOTIONS.

A Director moving the adoption of an ordinance or resolution shall ordinarily have the privilege of closing debate thereon.

4.3 RECONSIDERATION.

A motion to reconsider any action taken by the Board of Directors may be made only on the day such action was taken or at the next succeeding regular or special meeting. It may be made either immediately during the same session or at a recessed or adjourned session thereof. It may be made only by a Director who voted on the prevailing side, but may be seconded by any member. It may be made at any time and have precedence over all other motions, or while a member has the floor, and shall be considered as is provided in Robert's Rules of Order, Latest Edition. If such a motion is to be brought at a succeeding meeting the Director bringing the motion must notify the Chairperson or the Board Secretary at least ninety-six (96) hours in advance of the meeting.

4.4 SUBSTITUTE MOTION.

The Chairperson may, at his or her discretion, allow a substitute motion to take the place of a main motion pending before the Board if the Chairperson determines that the substitute motion clarifies and furthers the intent of the main motion and does not constitute a drastic deviation from the main motion. The Chairperson's determination to allow a substitute motion may be overruled by a majority of the Board.

4.5 MINUTES - BOARD COMMENTS.

A Director may request through the Chairperson, the privilege of having an abstract of his statement on any subject under consideration entered in the Minutes. If the Board consents thereto, such statement shall be entered in the Minutes. The Director so requesting shall furnish the APCO and Clerk of the Boards, with an abstract or transcript of his statement.

4.6 ADDRESSING THE BOARD.

Persons who are not members of the Board of Directors desiring to address the Board shall first secure permission of the Chairperson to do so. The Chairperson shall ordinarily recognize for the purpose of address to the Board:

- (a) Persons who have addressed written communications to the District may be recognized in regard to the matters under discussion,
- (b) Persons who have made written request for permission to address the Board on any matter outlined in their request, and
- (c) Persons interested in matters under discussion who have appeared for the purpose of protest, petition, or other presentation.

4.7 CLOSE OF PUBLIC HEARING.

After a motion to close a public hearing has been made by a member of the Board, no person shall address the Board until the motion is disposed of.

4.8 PUBLIC PRESENTATIONS TO THE BOARD.

Each person addressing the Board shall step up to the speaker's podium, shall give his or her name and address in an audible tone of voice for the record, and, if appearing in a representative capacity, shall state the party represented or, if appearing in a professional

capacity such as attorney-at-law or registered engineer, shall state that fact to the Board. Unless further time is granted by the Board Chairperson, remarks shall be limited as set forth in Section I-4.9. All remarks shall be addressed to the Board as a body and not to any individual member thereof. No person, other than members of the Board and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Board, without the permission of the Chairperson. No questions shall be asked of a member of the Board except through the Chairperson.

4.9 PRESENTATION TIME LIMITS.

Persons addressing the Board shall limit their remarks as follows:

- (a) Persons wishing to speak on items not on the agenda may do so under a time reserved for "public presentation" and shall be limited to five minutes for any single item. Although the Board may refer any issues raised by these speakers to District staff for review, no action may be taken by the Board on these items until they are agendized.
- (b) Persons speaking on agendized items shall be limited to three minutes or at the discretion of the Chair.

4.10 DECORUM.

- (a) **By Directors.** While the Board of Directors is in session the members shall preserve order and decorum and shall not, either by conversation or otherwise, delay or interrupt the proceedings of the Board nor disturb any member while speaking, or refuse to obey the orders of the Board or its Chairperson, except as may be otherwise expressly provided.
- (b) **By Other Persons.** Any person making personal, impertinent, slanderous or indecorous remarks, or who shall become boisterous while addressing the Board, shall be barred by the Chairperson from further discussion before the Board unless permission to continue is granted by a majority vote.

4.11 SERGEANT-AT-ARMS.

At the request of the Chairperson of the Board, the APCO shall obtain the services of a Peace Officer to perform the duties of Sergeant-at-Arms at the meetings of the Board. Whenever necessary, additional Peace Officers may be employed to serve as assistant Sergeants-at-Arms.

SECTION 5 BOARD OF DIRECTORS, VOTING

5.1 VOICE VOTE.

The usual method of taking a vote is by voice; provided, however, that the Chairperson may, and when requested to do so by two (2) Directors, shall, take a vote by roll call.

5.2 ROLL CALL.

All ordinances, rules, regulations or amendments thereto and any matters involving the disbursement of money shall be adopted by roll call, except where a voice vote is declared by the Chairperson to be unanimous, and shall require the affirmative vote of the majority of the

members of the Board. In addition, all proposals to settle any pending litigation in which the District is a defendant in a judicial action, whether approved in open session or in closed session, shall require the affirmative vote of the majority of the members of the Board.

5.3 CONFLICT OF INTEREST.

When one or more members determines that participation by the member(s) is prohibited by Section 87100 of the Government Code, because of the member(s) financial interest, the total membership of the Board shall be deemed to be reduced by the number of members prohibited from participation for the purpose of determining the number of affirmative votes required pursuant to Section I-5.2.

5.4 FAILURE TO VOTE.

If a Director shall remain silent on a voice vote or on a roll call, the Director shall be deemed to have voted with the prevailing side. It shall be the duty of the Directors to vote when present. A Director who has an interest in the matter being voted upon shall announce the fact that the Director has an interest and request permission from the Chairperson to be excused from voting. In such case, the failure to vote shall not be deemed a vote on either side.

SECTION 6 BOARD OF DIRECTORS, COMMITTEES

6.1 SPECIAL COMMITTEES.

All special committees shall be appointed by the Chairperson, unless otherwise directed by the Board.

6.2 STANDING COMMITTEES. (Revised 5/3/00)

Standing Committees of the Board of Directors shall be the following:

- (a) Executive Committee, consisting of the Chairperson of the Board, who shall be Chairperson of the Committee, the Vice-Chairperson of the Board, the Board Secretary, the last past Chairperson and five (5) other Directors appointed by the Chairperson.
- (b) Budget and Finance Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (c) Personnel Committee, consisting of nine (9) Directors appointed by the Chairperson.

OPERATING POLICIES & PROCEDURES

- (d) Legislative Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (e) Mobile Source Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (f) Public Outreach Committee, consisting of (9) Directors appointed by the Chairperson.
- (g) Stationary Source Committee, consisting of nine (9) Directors appointed by the Chairperson.
- (h) The Chairperson shall be an ex-officio member of all Standing Committees of the Board of Directors.
- (i) Each Standing Committee shall have authority to make recommendations to the Board of Directors for action regarding matters within the scope of the Committee's jurisdiction. A standing committee may discuss but may not make recommendations to the Board of Directors regarding issues outside of its jurisdiction and shall refer such matters to the appropriate committee. Except as specified in this Division or as otherwise specified by the Board of Directors, Standing Committees are not delegated decision-making authority.

6.3 ROTATION OF COMMITTEES.

The membership on committees shall ordinarily be rotated among the Counties so as to secure participation in the work of the District by as broad a representation as may be possible.

6.4 DUTIES OF EXECUTIVE COMMITTEE.

It is the function of the Executive Committee to consider such matters of policy affecting the affairs of the District as may arise from time to time when the Board of Directors is not in session. The Executive Committee shall consult with the officers of the District and, within the scope and limitations of resolutions or other policies adopted by the Board of Directors, shall implement and make more specific the policies and programs of the District and, within such limits determine policies for the officers of the District. The Executive Committee shall not have authority to authorize the expenditure of any moneys otherwise than is appropriated by the budget adopted by the Board of Directors or to alter, change or reverse any policy established by the Board of Directors. (See Section I-6.7) The Executive Committee shall have the responsibility for overseeing and guiding staff activities relative to long range planning and for receiving short range and long range plan proposals submitted by the District staff, as well as goals and objectives of the District; and for endorsing each year a long range plan to be submitted to the Board for its approval, and to the Budget and Finance Committee for its use in reviewing the Budget. The Executive Committee should review the goals and objectives, short and long range plans of the California Air Resources Board to the extent that they are known. The Executive Committee may receive and consider staff reports, presentations by staff members or other persons, and any other matter not requiring action by the Board. The Executive Committee shall subsequently report on such matters to the Board at a regular meeting of the Board.

6.5 BUDGET AND FINANCE COMMITTEE. (REVISED 5/3/00)

It is the function of the Budget and Finance Committee to assist in the preparation of the annual budget for the District and to present the annual budget with recommendations to the District Board of Directors. The Budget and Finance Committee also is responsible for approving administrative policy proposed by the

APCO in the area of finance, procurement, insurance and related matters. At Budget review time each year the Committee shall evaluate District goals and objectives and recommend to the Board of Directors any changes, deletions and additions which it determines to be appropriate.

6.6 PERSONNEL COMMITTEE.

It is the function of the Personnel Committee to consider and recommend policies of the District relating to procurement of officers and employees, employment of officers and employees, discharge of officers and employees, salaries and working conditions, and the retaining of consultants. The Personnel Committee shall keep itself informed as to the work of the Advisory Council and Hearing Board, to be informed about persons in the community who may be qualified to serve on the Advisory Council and Hearing Board, and to recommend to the Board of Directors selection of such persons whenever vacancies may from time to time occur in the Advisory Council and Hearing Board.

6.7 LEGISLATIVE COMMITTEE.

It is the function of the Legislative Committee to consider and recommend legislative proposals for the District and to consider and recommend a District position on all proposed legislation affecting the District. The Legislative Committee, in conjunction with District staff and the District Legislative Advocate, will keep itself informed on pending legislative matters and will meet and/or confer with appropriate legislators as necessary.

6.8 NOMINATING COMMITTEE. (Revised 10/4/95)

The Nominating Committee will consist of the Chairperson of the Board, the past Chairperson of the Board and three (3) appointees of the Chairperson of the Board, or in the event the past Chairperson of the Board is no longer serving on the Board, four (4) appointees of the Chairperson of the Board. The Nominating Committee shall be appointed no later than the second Board Meeting in November of each year and shall serve until the appointment of a new Committee. It is the function of the Nominating Committee to recommend to the Board the officers for each calendar year. In making its recommendation, the Committee shall not be bound by a recommendation of a previous Nominating Committee. The Committee need not follow a strict rule of rotation between supervisor and city members but may take into account their proportionate membership on the Board of Directors. Additionally, the Committee shall take into account the provisions of Section I-2.7.

6.9 QUORUM FOR COMMITTEES. (Revised 5/3/00)

There is no quorum requirement for a Committee meeting to be held, except that, for the purpose of making a Committee recommendation to the Board of Directors, there is established a quorum of five (5) Committee members.

6.10 COMMITTEE PROCEDURE. (Revised 5/3/00)

- a) Voting. Only members of the Committee shall be allowed to vote on Committee recommendations .
- b) Minority Report. Any Committee member can submit a Minority Report to accompany the Committee recommendation submitted to the Board of Directors, but may not use District staff to prepare such report.

6.11 MOBILE SOURCE COMMITTEE. (Revised 3/18/98)

It is the function of the Mobile Source Committee to consider and recommend policies and positions of the District relating to transportation planning and funding,

on-road and off-road mobile sources, and mobile source fuels. The Mobile Source Committee will keep itself informed on actions or proposed actions by local, regional, state and federal agencies affecting air pollutant emissions from mobile sources.

6.12 PUBLIC OUTREACH COMMITTEE

It is the function of the Public Outreach Committee to give overall direction to the District's public outreach program. In addition, the Committee hears proposals and makes recommendations to the Board of Directors regarding the selection of a contractor(s) to assist the District with aspects of the public outreach program. The Committee consists of Board members who vote on issues that come before the Committee.

6.13 STATIONARY SOURCE COMMITTEE. (Revised 2/19/03)

It is the function of the Stationary Source Committee to consider and recommend policies to the Board of Directors relating to stationary sources. The Committee shall recommend to the Board of Directors stationary source policy issues affecting the implementation of the State and Federal Air Quality Management Plans and key planning policy issues such as federal and State Air Quality Management Plan development and air quality and economic modeling. The Stationary Source Committee shall review and make recommendations to the Board of Directors regarding major stationary source programs including: permitting, compliance, small business assistance, toxics, source education, and rule development. The Stationary Source Committee shall recommend to the Board of Directors positions concerning federal and state regulations that affect stationary sources. The Stationary Source Committee shall recommend policies to the Board of Directors for disbursement of supplemental environmental project grants.

SECTION 7 ADVISORY COUNCIL

7.1 ACTIVITIES OF COUNCIL.

The Advisory Council shall meet at such times and occasions as the Advisory Council, itself, shall determine. The Advisory Council shall make recommendations and reports to the Board of Directors on such matters as the Council determines to be advisable and in such manner and form as the Council determines advisable. The Advisory Council shall consider and report to the Board on specific matters which may be referred to the Council by the Board of Directors or by the Executive Committee. The members of the Advisory Council are selected because of their eminence in their professions and fields of endeavor and as representatives of interest groups in the community. The Advisory Council shall consider for the Board of Directors matters which come before the Council to arrive at the best advice upon which the Council may agree, which advice may include the technical, social, economic, environmental and fiscal aspects of such issues.

7.2 TERM OF OFFICE.

The terms of office for members of the Advisory Council are fixed by Health and Safety Code Section 40263.

7.3 LIMITS ON TERM OF OFFICE.

Effective with appointments for terms on the Advisory Council commencing on January 1, 1992, and thereafter, it is the policy of the Board of Directors that members with twelve (12) consecutive years of membership on the Council not be re-appointed to the Council, except that such members who were serving on the Council on the date of adoption of this policy may be appointed to one additional term. A member not re-appointed because of having

served twelve (12) consecutive years on the Council shall again be eligible for appointment after an absence of two years from the Council.

7.4 EXPENSE REIMBURSEMENT.

Members of the Advisory Council shall be reimbursed for actual and necessary expenses incurred by them in attending meetings of the Advisory Council and meetings and public hearings conducted by the Board of Directors. Mileage, tolls, parking fees, meals and other incidental expenses will be allowed at the same rate as is allowed to Directors provided that receipts are presented pursuant to Section II-5.6.

7.5 OTHER EXPENSES.

Other expenses may be allowed after prior specific approval of a majority of the Executive Committee or the Board.

7.6 CLERK CERTIFICATION OF ATTENDANCE AND EXPENSES.

The Clerk of the Boards shall certify to the Director of Administrative Services the attendance and the expense reports of members of the Advisory Council.

SECTION 8 HEARING BOARD

8.1 RULES OF PROCEDURE.

The Hearing Board shall, from time to time, as it may deem necessary, adopt, re-adopt, or amend rules of procedure for the conduct of its hearings and for the conduct of matters which may be submitted to it and which are not inconsistent with law.

8.2 EXPENSE REIMBURSEMENT. (Revised 10/04/00)

Members of the Hearing Board may be paid for actual and necessary expenses incurred by them in attending meetings of the Hearing Board, the Board of Directors, Advisory Council and public hearings conducted by the Board of Directors. Mileage, tolls, parking fees, meals and other incidental expenses will be allowed at the same rate as is allowed to the Directors provided that receipts are presented pursuant to Section II-5.6). They shall be allowed a per-diem of one hundred dollars (\$100) for each day attending a meeting, other than meetings of the Hearing Board, when requested to do so by the Board or APCO. They shall be allowed a per diem of four hundred dollars (\$400) for each day attending meetings of the Hearing Board. The Hearing Board Chairperson shall be allowed a per diem of four hundred fifty dollars (\$450) for each day attending meetings of the Hearing Board.

8.3 CLERK OF HEARING BOARD.

The Clerk of the Boards shall be ex-officio the Clerk of the Hearing Board to perform clerical duties for the Hearing Board and to keep and maintain its records.

8.4 CERTIFICATION OF ATTENDANCE AND EXPENSES.

The Clerk of the Hearing Board shall certify to the Director of Administrative Services the attendance and the expense reports of the members of the Hearing Board.

8.5 OTHER EXPENSES.

Other expenses may be allowed after prior specific approval of a majority of the Executive Committee or the Board.

8.6 LIMITS ON TERM OF OFFICE. (Revised 3/16/94)

Effective with appointments for terms on the Hearing Board commencing on May 1, 1994, and thereafter, members with twelve (12) consecutive years of membership on the Hearing Board shall not be re-appointed to the Hearing Board, without exception. A member not re-appointed because of having served twelve (12) consecutive years on the Hearing Board shall again be eligible for appointment after an absence of three years from the Hearing Board.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Uilkema and
Members of the Board

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 5, 2006

Re: Disclosure of Costs for Optional Retirement Benefit as Required by
Government Code Section 7507

RECOMMENDATION

Accept this report on the disclosure of costs resulting from implementation of an optional retirement benefit as required by Government Code Section 7507.

BACKGROUND

The District's contract with the California Public Employees' Retirement System provides for an optional retirement benefit pursuant to Government Code Section 20903. The optional benefit is only utilized in the event of curtailment of or changes in the manner of providing services that are in the best interests of the agency. Government Code Section 7507 in turn requires disclosure of costs resulting from utilization of the optional benefit. Such disclosure must occur at a public meeting of the agency's governing body at least two weeks prior to action by the governing body to effectuate the optional benefit.

DISCUSSION

The particulars and justification for utilizing the optional benefit have been discussed with the Board in closed session.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The cost of utilizing the optional benefit is \$48,920.08.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Michael K. Rich

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chair Gayle B. Uilkema and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 22, 2006

Re: Report of the Budget & Finance Committee Meeting of March 22, 2006

RECOMMENDED ACTION

The Budget and Finance Committee recommends Board of Directors approval of the following item:

Amend the FY 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$100,000, and by correspondingly increasing the Professional Services & Contracts budget for Climate Protection (Program 608) by \$100,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$100,000 for a Greenhouse Gas Mitigation Study.

BACKGROUND

The Budget & Finance Committee met on March 22, 2006. Staff presented updates and recommendations on the following items:

- Request to Approve a Purchase Order and Amend FY 2005/2006 Budget for a Greenhouse Gas Study;
- Description of Draft Five-Year Capital Plan.
- Overview Regarding Civil Penalty Recovery and Budgeting

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

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

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Professional Services & Contracts budget for Climate Protection (Program 608) will be increased by \$100,000 with a corresponding increase of \$100,000 to the FY 2005/2006 Penalties and Settlements General Fund Revenue budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 13, 2006

Re: Budget Amendment: Greenhouse Gas Mitigation Study

RECOMMENDED ACTION:

Consider recommending that the Board of Directors amend the FY 2005/2006 Budget by increasing the Penalties and Settlements General Fund Revenue by \$100,000, and by correspondingly increasing the Professional Services & Contracts budget for Climate Protection (Program 608) by \$100,000, and authorize the Executive Officer/APCO to issue a purchase order not to exceed \$100,000 for a Greenhouse Gas Mitigation Study.

BACKGROUND

On June 1, 2005 the Board of Directors adopted a resolution establishing a Climate Protection Program and acknowledging the link between climate protection and programs to reduce air pollution in the Bay Area. Six Climate Protection Leadership Program initiatives have been identified by District staff and presented to the Ad Hoc Committee for Climate Protection at their February 23, 2006 meeting. Through a competitive RFP process, Initiative #2 would fund research into greenhouse gas emission reduction technologies or processes that could be applied to the District's permitted stationary sources. This initiative was not specifically itemized in the FY 2005/2006 budget.

DISCUSSION

Greenhouse Gas Mitigation Study

Staff will issue a Request for Proposals for up to \$100,000 for a study to identify and evaluate greenhouse gas emission reduction technologies and processes, evaluate the proposals, and bring a recommendation to the Ad Hoc Climate Protection Committee for approval of a contractor to complete the study.

Funding

Current year Penalties and Settlements collections already exceed the amended full year budget of \$2,252,000 by over \$300,000.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Professional Services & Contracts budget for Climate Protection (Program 608) will be increased by \$100,000 with a corresponding increase of \$100,000 to the FY 2005/2006 Penalties and Settlements General Fund Revenue budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: Description of Draft Five-Year Capital Plan

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

District capital planning has occurred on a yearly basis. Some visibility into longer term capital planning has been available within the reserve designations. The addition of a five-year capital plan will provide an enhanced context for discussion of fiscal priorities.

DISCUSSION

Staff will present an early draft version of a five-year capital plan. The plan will show projects proposed through the 2010-2011 fiscal year.

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 Chris Daly and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: Overview Regarding Civil Penalty Recovery and Budgeting

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

Recovery of civil penalties by the District for violations of air quality laws, including violations of the District's regulations, is governed by statutory provisions contained in the California Health and Safety Code. Pursuant to the Health and Safety Code, collected civil penalties are an element of the District's general fund revenues.

DISCUSSION

In response to a request at the March 1, 2006, meeting of the Budget and Finance Committee, District Counsel, Brian C. Bunger, will provide an overview regarding collection of civil penalties by the District and discuss budget considerations regarding civil penalties as an element of revenue for the District.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chair Gayle B. Uilkema and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 28, 2006

Re: Report of the Stationary Committee Meeting of March 27, 2006

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee met on Monday, March 27, 2006. Staff reported on the following items:

- A) Status Report on Regulation 12, Rule 12: Flares at Petroleum Refineries. Staff presented a report on proposed amendments to Regulation 12, Rule 12: Flares at Petroleum Refineries, scheduled to be heard by the Board of Directors on April 5, 2006;
- B) Report on Regulation 8, Rule 28: Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical plants: Staff presented a timeline and control options for further amendments to Regulation 8, Rule 28: Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical Plants;
- C) Report on Potential Controls for Commercial Broilers: Staff presented a report on development of potential controls for commercial broilers; and a
- D) Report on Senate Bill 700 concerning large confined animal facilities.

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

Chairperson John Silva will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Silva and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: Proposed Amendments to Regulation 12, Rule 12: Flares at Petroleum
Refineries

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

On July 20, 2005 the Board of Directors adopted Regulation 12, Rule 12: Flares at Petroleum Refineries. The rule requires each Bay Area petroleum refinery to develop a Flare Minimization Plan (FMP), periodically update the FMP, notify the District of significant flaring, and submit a causal analysis of the reasons for flaring when the amount of flare vent gas exceeds 500,000 standard cubic feet per day (scfd). As directed by the Board of Directors, at the September 26, 2005 Stationary Source Committee meeting, staff reported on certain issues remaining from the Regulation 12, Rule 12 rule development process.

At the November 28, 2005 Stationary Source Committee meeting, staff presented background information on a proposed regulatory amendment to modify Regulation 12, Rule 12 to require causal analyses of lower-volume events (less than 500,000 scfd) based on sulfur dioxide emissions. Staff summarized the South Coast rule and additional information on flare emissions, and recommended further rule development to require causal analyses of lower-volume events where the calculated sulfur dioxide emissions are greater than 500 pounds per day.

DISCUSSION

Staff will provide the Committee with a discussion of and rationale for the proposed amendments, and an update on the rule development process, including:

- A summary of Regulation 12, Rule 12 requirements;
- A description of the proposed amendments;
- An overview of the rule development process; and
- Implementation and next steps.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alex Ezersky
Reviewed by: Daniel Belik

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Silva and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: Status Report on Regulation 8, Rule 28: Episodic Releases from Pressure
Relief Devices at Petroleum Refineries and Chemical Plants

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

Regulation 8, Rule 28: Episodic Releases from Pressure Relief Devices at Petroleum Refineries and Chemical Plants requires reporting of atmospheric releases of 10 pounds or greater from any facility, requires petroleum refineries to implement prevention measures to prevent releases from existing pressure relief devices (PRDs), requires new refinery sources to be controlled so that PRDs do not release to the atmosphere, and requires control of PRDs if they release to the atmosphere a second time. On December 21, 2005 the Board adopted amendments to Rule 8-28. The amendments require each Bay Area petroleum refinery to:

- Demonstrate the ability to detect any release event from a pressure relief device;
- Record and maintain monitoring data for all PRDs for at least two years; and
- Identify and report to the District the process units equipped with PRDs and a listing of those PRDs.

At the December 21st Public Hearing, the Board also instructed District staff to continue to evaluate potential ways to further improve Rule 8-28.

DISCUSSION

In order to evaluate further enhancements to Rule 8-28, staff will analyze several sources of information, including:

- The identification of process units equipped with PRDs and the listing of those associated PRDs for each refinery required by the amendments to Rule 8-28; and
- The Flare Minimization Plans due to the District in August, 2006 as required by Regulation 12, Rule 12: Flares at Petroleum Refineries.

In addition, staff will work with Contra Costa Health Services, which recently requested that each Contra Costa refinery evaluate each atmospheric PRD and atmospheric blowdown system to determine if a catastrophic accident or release could occur.

Staff will provide the Committee with a discussion of:

- Control options for Rule 8-28; and
- A rule development timeline.

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 Silva and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: Potential Controls for Commercial Charbroilers

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

The 2005 Ozone Strategy includes a Further Study Measure to examine potential controls to reduce air pollutant emissions from charbroiling activities at commercial restaurants. In addition, the Particulate Matter (PM) implementation schedule prepared by the District pursuant to Senate Bill 656 (2003, Sher) includes a control measure to reduce emissions from commercial broiling operations. Accordingly, staff is evaluating potential controls for reducing volatile organic compounds (VOCs) and PM emissions from commercial charbroilers in the San Francisco Bay Area.

DISCUSSION

Staff will provide the Committee with the following information:

- Applicable regulations adopted by other California air districts;
- Emissions from charbroilers and other restaurant operations;
- Control options; and
- Projected 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 Silva and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2006

Re: SB700 Concerning Large Confined Animal Facilities

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

California law and District regulations have historically exempted agricultural facilities from the need to obtain air quality permits and comply with most other applicable air quality regulations. In September of 2003, Senate Bill 700 (Florez) was signed into law, removing the state's blanket permit exemption and requiring air districts to adopt regulations for certain agricultural operations.

The stated purpose of SB 700 is to "establish a new set of programs at the state and regional level to reduce emissions from agricultural sources in order to protect public health and the environment." The legislation takes into account that the agricultural contributions to air pollution are not the same in all regions of the state, thus the regulatory requirements of SB 700 are proportional to the severity of the air pollution problem. In general, only very large farms, dairies, ranches, and other agricultural facilities have the potential to trigger the requirements of SB 700. Due to the nature and scale of the agricultural industry in the Bay Area, most, if not all, existing agricultural sources are not expected to exceed these regulatory thresholds.

SOURCE DESCRIPTION

An agricultural facility is defined as a source of air pollution or group of sources, used in the production of crops, or the raising of fowl or animals located on contiguous property under common ownership or control. Agricultural facilities include vineyards, orchards, nurseries, vegetable and field crops, cattle, sheep, swine, and poultry feedlots, and dairies. Examples of the types of sources found at agricultural facilities include:

- Stationary and portable engines: including irrigation pumps, power generators, wind machines
- Heaters and boilers

- Confined animal facilities: dairy, cattle feedlots, poultry etc.
- Gasoline storage and dispensing

SB 700 REQUIREMENTS

For the Bay Area, there are two applicable regulatory requirements prescribed in SB 700: (1) the District must issue permits to agricultural facilities emitting greater than 50 tons per year of any regulated air contaminant, excluding fugitive dust, and (2) the District must develop a regulation for “large confined animal facilities” (large CAFs) by July 1, 2006. In response to SB 700, the District is proposing to modify Regulation 2, Rule 1: General Requirements to include the permitting of agricultural facilities greater than 50 tons per year, and develop a new Regulation 2, Rule 10, for Large Confined Animal Facilities.

A confined animal facility includes equipment used for the collection, storage, treatment, and distribution of manure from domesticated animals caused to remain in restricted areas for commercial agricultural purposes where feeding is by means other than grazing. In accordance with SB700, the California Air Resources Board has developed a definition for a large CAF for various animal types. For example, a dairy would be considered a large CAF if it maintained on any one day, greater than 1,000 milk-producing cows. The proposed Regulation 2, Rule 10 would require large CAFs to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility. Permits must include an emissions mitigation plan that demonstrates that the facility will implement control measures that represent reasonably available control technology to reduce emissions of POC, NO_x and PM₁₀.

REGULATORY HORIZON

The proposed rule changes are intended to meet the requirements set forth in SB 700 and act as a first step in addressing air pollution from agricultural facilities. Based on information that District staff has collected to date, it does not appear that these rule changes would affect any existing agricultural facilities in the Bay Area. Nonetheless, SB 700 does allow the District to regulate smaller agricultural facilities if certain findings are made, and District staff will be considering the need for further measures in conjunction with other rule development efforts. For example, the District’s recently adopted Bay Area 2005 Ozone Strategy contains two “Further Study Measures”, Livestock Waste (FS#6) and Stationary Internal Combustion Engines (FS#15), that have the potential to reduce emissions from Bay Area agricultural facilities. In addition, the California Air Resources Board is currently in the process of drafting emission standards for stationary diesel-fueled engines used in agricultural operations.

DISCUSSION

At the committee meeting, staff will provide a discussion of the following elements:

- 1) Requirements of SB 700
- 2) Characterization of agricultural facilities in the Bay Area
- 3) Proposed changes to District rules necessary to meet SB 700 requirements
- 4) Rule development schedule

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Joe Slamovich
Reviewed by: Brian Bateman

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
 Memorandum

To: Chair Gayle B. Uilkema and
 Members of the Board of Directors

From: Jack P. Broadbent
 Executive Officer/APCO

Date: March 28, 2006

Re: Public Hearing to Consider Adoption of Proposed Amendments to Regulation
 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum
Refineries and Approval of Filing a Notice of Exemption

RECOMMENDED ACTION:

Staff recommends the Board take the following actions:

- Adopt the proposed amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries; and
- Approve the filing of a California Environmental Quality Act Notice of Exemption

BACKGROUND

On July 20, 2005, the Bay Area Air Quality Management District (Air District) adopted a ground breaking refinery flare control rule (Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries). The new rule is intended to reduce emissions from flares at petroleum refineries by reducing the magnitude and duration of flaring events. Based on reported flare monitoring data, emissions are lower in 2005 compared with 2004. Sulfur dioxide (SO₂) emissions have decreased from approximately 4 tons per day for all facilities to approximately 0.62 tons per day for all facilities. Total hydrocarbon emissions have decreased from approximately 2 tons per day for all facilities to approximately 0.66 tons per day (approximately 0.5 tons per day non-methane hydrocarbon). However, it is too early to conclude these levels are representative of a permanent trend.

DISCUSSION

Regulation 12, Rule 12 includes a standard that prohibits the use of a refinery flare unless the use is consistent with an approved flare minimization plan (“FMP” or “Plan”). The rule is structured to provide a baseline to measure each refinery’s progress in minimizing flare events, to make permanent those reductions that have occurred since the adoption of the flare monitoring rule (June 2003), and to develop and expeditiously implement all feasible prevention measures for flaring that is expected to occur and for actual flaring events.

In addition to the requirement to develop and implement the initial flare minimization plans by August 2006, the rule requires refineries to:

- Prepare annual updates to the FMPs;
- Notify the District when flaring occurs;
- Conduct a causal analysis when significant flaring occurs; and
- Monitor the flare water seals.

The five Bay Area refineries are developing flare minimization plans in active consultation with Air District staff. The completed plans will be made available to the public for review and comment prior to final action by the Air District. A plan will only be approved if the APCO determines that available flaring prevention measures have been considered and that all feasible prevention measures are incorporated. Effective November 1, 2006, flaring will only be allowed in accordance with an approved plan, or for emergencies where necessary to prevent accident, hazard or release of flare vent gas into the atmosphere, based on a causal analysis. Regulation 12, Rule 12 will result in a continuous improvement in refineries' efforts to reduce flaring that was initiated even before the adoption of Regulation 12, Rule 11: Flare Monitoring in Petroleum Refineries.

PROPOSED AMENDMENTS

The proposed amendments will change the annual reporting provision for flaring events of less than 500,000 standard cubic feet per day (scfd) but greater than 500 lbs SO₂ per day. The change would require the analysis and reporting of this lower-volume flaring to occur on the same schedule specified for reportable flaring events, i.e., within 60 days following the end of the month in which the flaring occurs. The proposed change would take effect upon adoption by the Air District Board of Directors.

Specifically, the proposal would amend the current definition of "reportable flaring event" for which a causal analysis is required within 60 days of the end of the month in which the flaring occurs, i.e., any flaring of more than 500,000 scfd vent gas, to include any flaring where the calculated SO₂ emissions are greater than 500 pounds per day regardless of flow. The current rule requires the owner or operator of a flare subject to the rule to submit an annual report covering such lower-volume flaring beginning 12 months after approval of a refinery's initial FMP. By moving up the schedule for analysis of lower-volume flaring with emissions of SO₂ in excess of 500 pounds per day, the District will insure that the initial FMPs will account for and address the causes of all significant flaring.

The proposal also includes an amendment specifying that the causal analysis must include the calculated methane, non-methane and sulfur dioxide emissions. The reports currently submitted include this information or the data necessary to calculate this information. This amendment will insure that all refineries submit this information in a manner most efficient for staff use.

Finally, the definition of a reportable flaring event has been amended to clarify that the total volume is calculated on a cumulative basis for flare systems. This clarification is necessary to identify when a reportable flaring event begins and ends for systems that are operated as backup or staged flares or flares in a cascade (common piping configured either in series or parallel where the flare vent gas may be distributed to more than one flare).

RULE DEVELOPMENT PROCESS

Staff posted a request for comments on the proposed amendments on December 23, 2005. Three comments were received and were in support of the proposed amendments. Two comments stated that the proposed language in the definition of a reportable flaring event, "*For flares that are designed or can be operated as a backup, staged or cascade system, a reportable flaring event ends when the volume for each flare in the system is less than*

500,000 scfd.” did not add clarity in the context of the entire definition. Staff agrees with this comment and has omitted the sentence.

ENVIRONMENTAL IMPACTS

The proposed amendments to Regulation 12, Rule 12 are exempt from the provisions of the California Environmental Quality Act, Public Resources Code section 21000 et seq., (CEQA) in accordance with State CEQA Guidelines section 15061(b)(3). The amendments are administrative in nature, and it can be seen with certainty that they have no possibility of causing significant environmental impacts. The Air District intends to file a Notice of Exemption pursuant to State CEQA Guidelines, Section 15062.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

Staff anticipates the proposed amendments will have an insignificant financial impact on Air District resources. The amendments require an earlier analysis for lower-volume flare events and a provision for adding the calculated emissions to the causal analysis report. These added tasks are offset by the provision to allow multi-day events with the same cause to be considered a single event resulting in a single causal analysis report. In addition, by requiring refiners to provide the calculated emissions in the causal analysis report staff anticipates greater efficiency in evaluating the feasibility of prevention measures.

Respectfully submitted,

Jack P. Broadbent
Executive Officer / Air Pollution Control Officer

Prepared by: Alex Ezersky
Reviewed by: Daniel Belik

Attachment(s):

Draft Proposed Revisions to Regulation 12: Rule 12
Staff Report: Proposed Amendments to Regulation 12: Rule 12

**REGULATION 12
MISCELLANEOUS STANDARDS OF PERFORMANCE
RULE 12
FLARES AT PETROLEUM REFINERIES
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REGULATION 12
MISCELLANEOUS STANDARDS OF PERFORMANCE
RULE 12
FLARES AT PETROLEUM REFINERIES

(Adopted July 20, 2005)

12-12-100 GENERAL

12-12-101 Description: The purpose of this rule is to reduce emissions from flares at petroleum refineries by minimizing the frequency and magnitude of flaring. Nothing in this rule should be construed to compromise refinery operations and practices with regard to safety.

12-12-110 Exemption, Organic Liquid Storage and Distribution: The provisions of this rule shall not apply to flares or thermal oxidizers used to control emissions exclusively from organic liquid storage vessels subject to Regulation 8, Rule 5 or exclusively from loading racks subject to Regulation 8 Rules 6, 33, or 39.

12-12-111 Exemption, Marine Vessel Loading Terminals: The provisions of this rule shall not apply to flares or thermal oxidizers used to control emissions exclusively from marine vessel loading terminals subject to Regulation 8, Rule 44.

12-12-112 Exemption, Wastewater Treatment Systems: The provisions of this rule shall not apply to thermal oxidizers used to control emissions exclusively from wastewater treatment systems subject to Regulation 8, Rule 8.

12-12-113 Exemption, Pumps: The provisions of this rule shall not apply to thermal oxidizers used to control emissions exclusively from pump seals subject to Regulation 8, Rule 18. This exemption does not apply when emissions from a pump are routed to a flare header.

12-12-200 DEFINITIONS: For the purposes of this rule, the following definitions apply:

12-12-201 Emergency: A condition at a petroleum refinery beyond the reasonable control of the owner or operator requiring immediate corrective action to restore normal and safe operation that is caused by a sudden, infrequent and not reasonably preventable equipment failure, natural disaster, act of war or terrorism or external power curtailment, excluding power curtailment due to an interruptible power service agreement from a utility.

12-12-202 Feasible: Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

12-12-203 Flare: A combustion device that uses an open flame to burn combustible gases with combustion air provided by uncontrolled ambient air around the flame. This term includes both ground-level and elevated flares. When used as a verb, the term "flare" means the combustion of vent gas in a flare.

12-12-204 Flare Minimization Plan (FMP): A document intended to meet the requirements of Section 12-12-401.

12-12-205 Gas: The state of matter that has neither independent shape nor volume, but tends to expand indefinitely. Gas includes aerosols and the terms "gas" and "gases" are interchangeable.

12-12-206 Petroleum Refinery: A facility that processes petroleum, as defined in the North American Industrial Classification Standard No. 32411 and including any associated sulfur recovery plant.

12-12-207 Prevention Measure: A component, system, procedure or program that will minimize or eliminate flaring.

12-12-208 Reportable Flaring Event: Any flaring where more than 500,000 standard cubic feet per calendar day of vent gas is flared or where sulfur dioxide (SO₂) emissions are greater than 500 lbs per day. For flares that are operated as a backup, staged or

cascade system, the volume is determined on a cumulative basis; the total volume equals the total of vent gas flared at each flare in the system. For flaring lasting more than one calendar day, each day of flaring constitutes a separate flaring event unless the owner or operator demonstrates to the satisfaction of the APCO that the cause of flaring is the same for two or more consecutive days. A reportable flaring event ends when it can be demonstrated by monitoring required in Section 12-12-501 that the integrity of the water seal has been maintained sufficiently to prevent vent gas to the flare tip. For flares without water seals or water seal monitors as required by Section 12-12-501, a reportable flaring event ends when the rate of flow of vent gas falls below 0.5 feet per second.

- 12-12-209 Responsible Manager:** An employee of the facility or corporation who possesses sufficient authority to take the actions required for compliance with this rule.
- 12-12-210 Shutdown:** The intentional cessation of a petroleum refining process unit or a unit operation within a petroleum refining process unit due to lack of feedstock or the need to conduct periodic maintenance, replacement of equipment, repair or other operational requirements. A process unit includes subsets and components of the unit operation. Subsets and components includes but are not limited to reactors, heaters, vessels, columns, towers, pumps, compressors, exchangers, accumulators, valves, flanges, sample stations, pipelines or sections of pipelines.
- 12-12-211 Startup:** The setting into operation of a petroleum refining process unit for purposes of production. A process unit includes subsets and components of the unit operation. Subsets and components includes but are not limited to reactors, heaters, vessels, columns, towers, pumps, compressors, exchangers, accumulators, valves, flanges, sample stations, pipelines or sections of pipelines.
- 12-12-212 Thermal Oxidizer:** An enclosed or partially enclosed combustion device, other than a flare, that is used to oxidize combustible gases.
- 12-12-213 Vent Gas:** Any gas directed to a flare excluding assisting air or steam, flare pilot gas, and any continuous purge gases.

12-12-300 STANDARDS

- 12-12-301 Flare Minimization:** Effective November 1, 2006, flaring is prohibited unless it is consistent with an approved FMP and all commitments due under that plan have been met. This standard shall not apply if the APCO determines, based on an analysis conducted in accordance with Section 12-12-406, that the flaring is caused by an emergency and is necessary to prevent an accident, hazard or release of vent gas directly to the atmosphere.

12-12-400 ADMINISTRATIVE REQUIREMENTS

- 12-12-401 Flare Minimization Plan Requirements:** The owner or operator of a petroleum refinery with one or more flares subject to this rule shall submit to the APCO a FMP in accordance with the schedule in Section 12-12-402. The FMP shall be certified and signed by a Responsible Manager and shall include, but not be limited to:
- 401.1 Technical Data:** A description and technical information for each flare that is capable of receiving gases and the upstream equipment and processes that send gas to the flare including:
- 1.1 A detailed process flow diagram accurately depicting all pipelines, process units, flare gas recovery systems, water seals, surge drums and knock-out pots, compressors and other equipment that vent to each flare. At a minimum, this shall include full and accurate as-built dimensions and design capacities of the flare gas recovery systems, compressors, water seals, surge drums and knockout pots.
 - 1.2 Full and accurate descriptions including locations of all associated monitoring and control equipment.

- 401.2 Reductions Previously Realized:** A description of the equipment, processes and procedures installed or implemented within the last five years to reduce flaring. The description shall specify the year of installation.
- 401.3 Planned Reductions:** A description of any equipment, processes or procedures the owner or operator plans to install or implement to eliminate or reduce flaring. The description shall specify the scheduled year of installation or implementation.
- 401.4 Prevention Measures:** A description and evaluation of prevention measures, including a schedule for the expeditious implementation of all feasible prevention measures, to address the following:
- 4.1 Flaring that has occurred or may reasonably be expected to occur during planned major maintenance activities, including startup and shutdown. The evaluation shall include a review of flaring that has occurred during these activities in the past five years, and shall consider the feasibility of performing these activities without flaring.
 - 4.2 Flaring that may reasonably be expected to occur due to issues of gas quantity and quality. The evaluation shall include an audit of the vent gas recovery capacity of each flare system, the storage capacity available for excess vent gases, and the scrubbing capacity available for vent gases including any limitations associated with scrubbing vent gases for use as a fuel; and shall consider the feasibility of reducing flaring through the recovery, treatment and use of the gas or other means.
 - 4.3 Flaring caused by the recurrent failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. The evaluation shall consider the adequacy of existing maintenance schedules and protocols for such equipment. For purposes of this Section, a failure is recurrent if it occurs more than twice during any five year period as a result of the same cause as identified in accordance with Section 12-12-406.
- 401.5** Any other information requested by the APCO as necessary to enable determination of compliance with applicable provisions of this rule.

Failure to implement and maintain any equipment, processes, procedures or prevention measures in the FMP is a violation of this section.

12-12-402 Submission of Flare Minimization Plans: On or before August 1, 2006, the owner or operator of a petroleum refinery with one or more flares subject to this rule shall submit a FMP as required by Section 12-12-401. On or before November 1, 2005 and every three months thereafter until a complete FMP is submitted, the owner or operator shall provide a status report detailing progress towards fulfilling the requirements of Section 12-12-401. Upon the submission of each status report, the APCO may require a consultation regarding the development of the plan to ensure that the plan meets the requirements of Section 12-12-401.

12-12-403 Review and Approval of Flare Minimization Plans: The procedure for determining whether the FMP meets the applicable requirements of this regulation is as follows:

- 403.1 Completeness Determination:** Within 45 days of receipt of the FMP, the APCO will deem the plan complete if he determines that it includes the information required by Section 12-12-401. If the APCO determines that the proposed FMP is not complete, the APCO will notify the owner or operator in writing. The notification will specify the basis for this determination and the required corrective action.
- 403.2 Corrective Action:** Upon receipt of such notification, the owner or operator shall correct the identified deficiencies and resubmit the proposed FMP within 45 days. If the APCO determines that the owner or operator failed to correct any deficiency identified in the notification, the APCO will disapprove the FMP.

403.3 Public Comment: The complete FMP (with exception of confidential information) will be made available to the public for 60 days. The APCO will consider any written comments received during this period prior to approving or disapproving the FMP.

403.4 Final Action: Within 45 days of the close of the public comment period, the APCO will approve the FMP if he determines that the plan meets the requirements of Section 12-12-401, and shall provide written notification to the owner or operator. This period may be extended if necessary to comply with state law. If the APCO determines that the FMP does not meet the requirements of Section 12-12-401, the APCO will notify the owner or operator in writing. The notification will specify the basis for this determination. Upon receipt of such notification, the owner or operator shall correct the identified deficiencies and resubmit the FMP within 45 days. If the APCO determines that the owner or operator failed to correct any deficiency identified in the notification, the APCO will disapprove the FMP.

If the owner or operator submitted a complete FMP in accordance with Section 12-12-402, and the APCO has not disapproved the FMP under this section, the FMP shall be considered an approved FMP for the purposes of Section 12-12-301 until the APCO takes final action under Section 12-12-403.4.

12-12-404 Update of Flare Minimization Plans: The FMP shall be updated as follows:

404.1 No more than 12 months following approval of the original FMP and annually thereafter, the owner or operator of a flare subject to this rule shall review the FMP and revise the plan to incorporate any new prevention measures identified as a result of the analyses prescribed in Sections 12-12-401.4, and 12-12-406, ~~and 12-12-407~~. The updates must be approved and signed by a Responsible Manager.

404.2 Prior to installing or modifying any equipment described in Section 12-12-401.1.1 that requires a District permit to operate, the owner or operator shall obtain an approved updated FMP addressing the new or modified equipment.

404.3 Annual FMP updates (with exception of confidential information) shall be made available to the public for 30 days. The APCO shall consider any written comments received during this period prior to approving or disapproving the update.

404.4 Within 45 days of the close of the public comment period, the APCO shall approve the FMP update if he determines that the update meets the requirements of Section 12-12-401, and shall provide written notification to the owner or operator. The previously approved FMP together with the approved update constitutes the approved plan for purposes of Section 12-12-301. This period may be extended if necessary to comply with state law. If the APCO determines that the FMP update does not meet the requirements of Section 12-12-401, the APCO will notify the owner or operator in writing. The notification will specify the basis for this determination and the required corrective action. Upon receipt of such notification, the owner or operator shall correct the identified deficiencies and resubmit the FMP update within 30 days. If the APCO determines that the owner or operator failed to correct the deficiencies identified in the notification, the APCO will disapprove the FMP update. For purposes of Section 12-12-301, disapproval of the update constitutes disapproval of the existing FMP, unless otherwise specified by the APCO.

404.5 If the owner or operator fails to submit a plan update as required by this Section, the APCO shall provide written notification of the lapse. If the owner or operator fails to submit an update within 30 days of receipt of the notification, the existing FMP shall no longer be considered an approved plan for purposes of Section 12-12-301.

12-12-405 Notification of Flaring: Effective August 20, 2005, the owner or operator of a flare subject to this rule shall notify the APCO as soon as possible, consistent with safe operation of the refinery, if the volume of vent gas flared exceeds 500,000 standard cubic feet per calendar day. The notification, either by phone, fax or electronically, shall be in a format specified by the APCO and include the flare source name and number, the start date and time, and the end date and time.

12-12-406 Determination and Reporting of Cause: The owner or operator of a flare subject to this rule shall submit a report to the APCO within 60 days following the end of the month in which a reportable flaring event occurs. The report shall include, but is not limited to, the following:

406.1 The results of an investigation to determine the primary cause and contributing factors for the flaring event.

406.2 Any prevention measures that were considered or implemented to prevent recurrence together with a justification for rejecting any measures that were considered but not implemented.

406.3 If appropriate, an explanation of why the flaring is consistent with an approved FMP.

406.4 Where applicable, an explanation of why the flaring was an emergency and necessary to prevent an accident, hazard or release of vent gas to the atmosphere or where, due to a regulatory mandate to vent to a flare, it cannot be recovered, treated and used as fuel gas at the refinery.

406.5 The volume of vent gas flared, the calculated methane, non-methane hydrocarbon and sulfur dioxide emissions associated with the reportable flaring event.

~~**12-12-407 Annual Reports:** Effective twelve months after approval of the original FMP and annually thereafter, the owner or operator of a flare subject to this rule shall submit a report to the APCO that summarizes the use of a flare at rates less than 500,000 standard cubic feet per day where sulfur dioxide (SO₂) emissions are greater than 500 lbs per day. The summary shall include, but not be limited to, the date and duration, the reason for flaring and any prevention measures considered or implemented.~~

12-12-408 Designation of Confidential Information: When submitting the initial FMP, any updated FMP or any other report required by this Rule, the owner or operator shall designate as confidential any information claimed to be exempt from public disclosure under the California Public Records Act, Government Code section 6250 et seq. If a document is submitted that contains information designated confidential in accordance with this Section, the owner or operator shall provide a justification for this designation and shall submit a separate copy of the document with the information designated confidential redacted.

12-12-500 MONITORING AND RECORDS

12-12-501 Water Seal Integrity Monitoring: Effective August 1, 2006, the owner or operator of a flare subject to this rule with a water seal shall continuously monitor and record the water level and pressure of the water seal that services each flare. Any new installation of a water seal shall be subject to this requirement immediately. Records of these measurements shall be retained for one year. Monitoring devices required pursuant to this section shall be subject to the reporting and record keeping requirements of Regulation 1, Section 523: Parametric Monitors.

Bay Area Air Quality Management District

**939 Ellis Street
San Francisco, CA 94109**

Staff Report

**Proposed Amendments
to
Regulation 12, Miscellaneous Standards of Performance
Rule 12, Flares at Petroleum Refineries**

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I. EXECUTIVE SUMMARY

On July 20, 2005, the Bay Area Air Quality Management District (District) adopted a ground breaking refinery flare control rule (Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries). The new rule is intended to reduce emissions from flares at petroleum refineries by reducing the magnitude and duration of flaring events.

The new rule requires each Bay Area refinery to develop and implement a Flare Minimization Plan (FMP) for each flare subject to the rule and to update the plan annually. In addition, the refiners must conduct a causal analysis when significant flaring occurs and develop and submit an annual report to provide information about the cause of flaring at lower flow rates. Refiners must operate their flares in accordance with the FMP except for flaring in emergency situations. The initial FMP for each refinery must be submitted to the District by August 1, 2006.

The rule embodies a continuous improvement process focused on reducing all air pollutants from all flaring. A fundamental requirement of the regulation is the investigation to determine primary cause and contributing factors for flaring (causal analysis) in order to develop prevention measures to avoid or minimize flaring. The rule includes two requirements for submitting an analysis of the cause(s) of flaring depending on the amount of vent gas flared.

The first reporting requirement calls for submission of a causal analysis report to the District within 60 days following the end of the month in which a reportable flaring event occurs. A reportable flaring event is currently defined as any flaring where more than 500,000 standard cubic feet per day (scfd) of vent gas is flared. The second reporting provision requires an annual report to the Air Pollution Control Officer (APCO) that summarizes the use of a flare at rates less than 500,000 scfd where sulfur dioxide emissions are greater than 500 pounds per day. The summary must include the reasons for the flaring and prevention measures considered or implemented. Reporting of flaring resulting in sulfur dioxide emissions in excess of 500 pounds (regardless of the flow rate) is required twelve months after approval of the initial FMP and annually thereafter. Both provisions require determination of cause, identification of prevention measures and incorporation of prevention measures into the FMP.

These provisions are the subject of the proposed rule amendments. The proposal is to change the annual reporting requirement for lower-volume flaring (less than 500,000 scfd) where emissions of sulfur dioxide exceed 500 pounds per day. The change would require the analysis and reporting of this lower-volume flaring to occur on the same schedule specified for flaring events greater than 500,000 scfd, i.e., within 60 days following the end of the month in which a reportable flaring event occurs. The proposed change would take effect upon adoption by the District Board of Directors. There have been 49 of these lower-

volume flaring events over the past two years; 28 in 2004 and 21 in 2005.

The reason for the proposed amendment is to ensure that the prevention measures developed from the investigations into lower-volume flaring with sulfur dioxide emissions greater than 500 pounds per day are incorporated into the initial FMPs.

In addition, the proposal would specify that the report of causal analysis for a reportable flaring event must include the volume of vent gas flared and the calculated emissions (methane, non-methane hydrocarbon and sulfur dioxide). This information is necessary to provide the context necessary for a comprehensive report. The proposal would also clarify the application of the causal analysis provision for refineries with cascade and backup systems.

II. BACKGROUND

The District's flare control rule, Regulation 12, Rule 12, recognizes that a flare is first and foremost a safety device. Specifically, the rule allows flaring in an emergency if necessary to prevent an accident, hazard or release of vent gas directly to the atmosphere. All other flaring must be consistent with the FMP developed by each refinery.

The FMP includes information about the flare system or systems at the refinery and a list of feasible prevention measures to be implemented on an expedited schedule. The prevention measures are to be developed in conjunction with the causal analysis of reportable flaring events and the annual reports of the analysis of lower-volume flaring with sulfur dioxide emissions in excess of 500 pounds per day.

The current regulation includes a requirement to conduct an investigation to evaluate any reportable flaring event, i.e., flaring where more than 500,000 scfd of vent gas is combusted. The purpose of the investigation is to identify the cause (or causes) of the flaring and the means to avoid flaring from that cause in the future if feasible. In addition to the causal analyses for reportable flaring events, beginning 12 months after approval of the initial FMP, each facility is required to submit an annual report to the District that includes an evaluation of flaring at volumes less than 500,000 scfd where the calculated sulfur dioxide emissions are greater than 500 pounds per day. These formal evaluation processes will ensure that each refinery makes continuous improvement and progress toward minimizing flaring from any cause.

All feasible prevention measures identified through either of the reporting methods described above are to be incorporated in the FMP with a schedule for expeditious implementation of those measures. The FMP must be updated annually to incorporate the prevention measures identified during the previous year as well as any significant changes in process equipment or operational procedures related to flares. Any flaring that occurs after submission of the initial

FMP must be consistent with the current plan.

The requirement to conduct an investigation into the reasons for flaring was originally proposed in Regulation 12, Rule 11: Flare Monitoring at Petroleum Refineries. Under that regulation, for any 24-hour period during which more than 1 million standard cubic feet (scf) of vent gas is flared, a description of the flaring including the cause, time of occurrence and duration, the source or equipment from which the vent gas originated, and any measures taken to reduce or eliminate flaring must be submitted to the District in a monthly report. This provision was effective on the date of rule adoption, June 4, 2003. The data included in the monthly report became more encompassing as other provisions in the rule became effective; specifically the requirements to continuously monitor vent gas flow and to sample vent gas and analyze for composition. These data were used to consider various thresholds of a causal analysis in the development of the flare control rule.

A lower threshold to conduct a causal analysis was proposed for the new flare control rule, Regulation 12, Rule 12: Flares at Petroleum Refineries. Two reporting requirements were developed to cover all significant flaring events in an efficient and thorough manner. The first reporting requirement calls for a causal analysis to be completed where more than 500,000 scfd of vent gas is flared. This report is due 60 days following the end of the month in which the flaring event occurs. The second reporting provision requires a summary of the use of a flare at rates less than 500,000 scfd of vent gas where sulfur dioxide (SO₂) emissions are greater than 500 pounds per day. This report is due annually effective 12 months after approval of the original FMP.

A breakdown of the number of flaring events for 2004 and 2005 is shown in Table 1. This data was obtained from the monthly reports required by the flare monitoring rule. The 2005 data incorporates January through November 2005. Also, the Tesoro data excludes the Ammonia Plant flare, because of an ongoing verification audit.

Table 1. Summary of Flaring Events at Bay Area Refineries

Facility	Events Less than 500,000 scfd and Greater than 500 lbs SO ₂ per day		Events Greater than 500,000 scfd	
	2004	2005 ^a	2004	2005 ^a
Chevron	0	2	38	21
ConocoPhillips	8	9	12	38
Shell	0	1	89	30
Tesoro ^b	4	2	72	64
Valero	16	7	90	21
Total	28	21	301	174

^a Data through November 2005

^b Excludes Ammonia Plant Flare

The data in the table shows that most flaring would require a causal analysis under the existing threshold for causal analysis (greater than 500,000 scfd vent gas). The lower threshold represents a small portion of all flaring, but these lower-flow events with sulfur dioxide emissions at levels of concern may have different causes than the greater than 500,000 scfd events. Staff has concluded that requiring analysis of certain lower-volume flaring (greater than 500 pounds per day SO₂) for inclusion in the initial FMP will insure that each refinery is creating a flare minimization strategy that will best address the causes of all flaring of concern at each refinery.

III. PROPOSED AMENDMENTS

The proposed amendments will change the annual reporting provision for the flaring events of less than 500,000 scfd but greater than 500 lbs SO₂ per day. The change would require the analysis and reporting of this lower-volume flaring to occur on the same schedule specified for reportable flaring events, i.e., within 60 days following the end of the month in which the flaring occurs. The proposed change would take effect upon adoption by the District Board of Directors.

Specifically, the proposal would amend the current definition of “reportable flaring event” for which a causal analysis is required within 60 days of the end of the month in which the flaring occurs, i.e., any flaring of more than 500,000 scfd vent gas, to include any flaring at rates below 500,000 scfd where the calculated SO₂ emissions are greater than 500 pounds per day. The current rule requires the owner or operator of a flare subject to the rule to submit an annual report covering such lower-volume flaring beginning 12 months after approval of a refinery’s initial FMP. By moving up the schedule for analysis of lower-volume flaring with emissions of SO₂ in excess of 500 pounds per day, the District will insure that the initial FMPs will account for and address the causes of all significant flaring.

The proposal also includes an amendment specifying that the causal analysis must include the calculated methane, non-methane and sulfur dioxide emissions. The reports currently submitted include this information or the data necessary to calculate this information. This amendment will insure that all refineries submit this information a manner most efficient for staff use.

Finally, the definition of a reportable flaring event has been amended to clarify that the total volume is calculated on a cumulative basis for flare systems. This clarification is necessary to identify when a reportable flaring event begins and ends for systems that are operated as a backup or staged flares or flares in a cascade (common piping configured either in series or parallel where the flare vent gas may be distributed to more than one flare).

IV. Emissions

Flares produce air pollutants through two primary mechanisms. The first mechanism is incomplete combustion of a gas stream, because like all combustion devices, flares do not combust all of the fuel directed to them. The second mechanism of pollutant generation is the oxidation of flare gases to form other pollutants. As an example, the gases that are burned in flares typically contain sulfur in varying amounts. Combustion oxidizes these sulfur compounds to form sulfur dioxide, a criteria pollutant. In addition, combustion also produces relatively minor amounts of nitrogen oxides through oxidation of the nitrogen in flare gas or atmospheric nitrogen in combustion air. The flare control rule adopted by the District last year will reduce emissions from flaring as described in the staff report for Regulation 12, Rule 12: Flares at Petroleum Refineries.

The proposed amendments are administrative in nature and will not have a significant emissions impact. The amendments will require a causal analysis for the lower-volume events with SO₂ emissions in excess of 500 pounds per day on the same schedule as the higher volume events. This will insure that prevention measures for these lower-volume events are incorporated into the initial FMPs. In addition, the proposed amendments include a clarification of the application of the requirements to cascade, staged or backup flare systems and a provision to ensure that the report to the District providing the causal analysis for a flaring event includes calculated emissions for that event. No change in the amount of emission reductions from implementation of the flare control rule as adopted July 20, 2005 are expected as a result of the proposed amendments; however, some reductions may occur earlier than under the current rule if prevention measures for these lower-volume flaring events are identified and implemented through the initial FMPs.

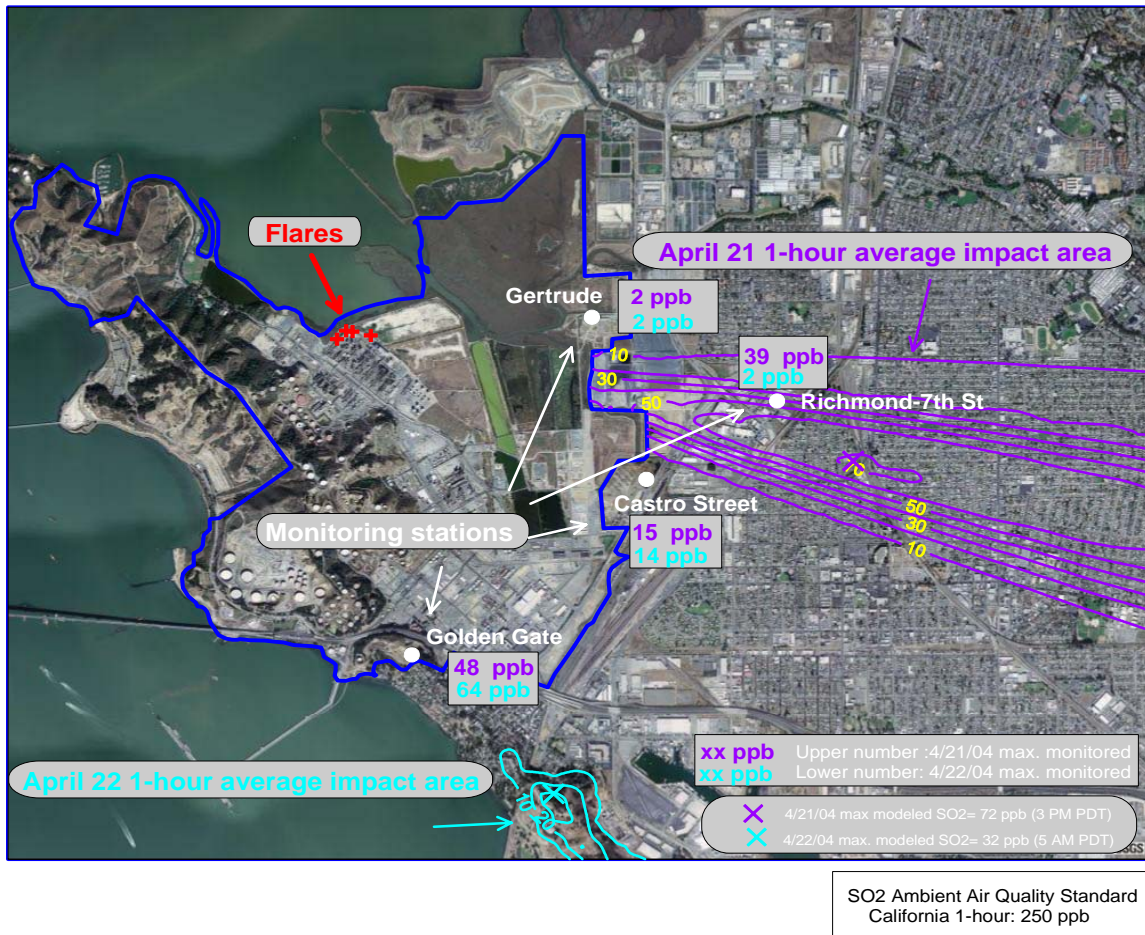
Current Flare Emission Estimate

The estimated emissions from flares, on an average daily basis for all facilities in 2004, are approximately 2 tons/day of total organic compounds (approximately 1.5 tons/day of non-methane organic compounds and 0.5 tons/day methane). The daily emissions range from 0 to 12 tons/day of total organic compounds. For sulfur dioxide, the average daily emission rate is approximately 4 tons/day and ranges from 0 to 61 tons/day.

To illustrate the offsite impact of emissions associated with lower-volume flaring, staff modeled two days (April 21 and 22, 2004) of flaring at the Chevron refinery where the volume of vent gas flared was less than one-million standard cubic feet per calendar day and the calculated sulfur dioxide emissions were greater than 500 pounds per day. The results of the modeling are illustrated in the Figure 1.

Figure 1. Modeled Lower-Volume Flaring Event

April 21 and 22, 2004 Chevron Flaring Event
 Maximum 1-hour SO₂ Air Concentration (ppb)



In Figure 1, above, Richmond area monitoring stations (Gertrude, Richmond - 7th Street, Castro Street, and Golden Gate) are indicated by the white dots. The boxes next to each station contain the recorded concentration of SO₂ in parts per billion (ppb) at that station for April 21 (upper, purple) and April 22 (lower, blue). The areas within the 10 ppb isopleths (April 21 near the Richmond - 7th Street Station in purple and April 22 southeast of the Golden Gate Station in blue) show the modeled ground level concentration of SO₂ in ppb. Chevron's flares are located directly west of the Gertrude Station (in red).

On each of the two days several flares were in operation at rates less than one-million standard cubic feet per day with calculated SO₂ emissions of over 7500 and 2500 pounds per day, respectively. The isopleths show that the modeling estimates concentrations consistent with data from nearby ambient air quality monitors. The modeling shows a one-hour maximum concentration of 72 ppb for April 21 and 32 ppb for April 22. The ambient air quality standard for a one-hour concentration of SO₂ is 250 ppb. Nevertheless, these isopleths show an impact on the nearby community. For this reason, the inclusion of prevention measures

directed at lower-volume flaring with SO₂ emissions greater than 500 pounds per day in the initial FMP will lessen the emissions impact of flaring on those who live and work within affected areas.

V. ECONOMIC IMPACTS

A. Introduction

This section discusses the estimated costs associated with the proposed amendments. The California Health & Safety Code states, in part, that districts shall endeavor to achieve and maintain State ambient air quality standards for ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide by the earliest practicable date. In developing regulations to achieve this objective, districts shall consider the cost-effectiveness of their air quality programs, rules, regulations, and enforcement practices in addition to other relevant factors, and shall strive to achieve the most efficient methods of air pollution control. However, priority shall be placed upon expeditious progress toward the goal of healthful air.¹

Regulation 12-12 requires refineries to develop the prevention measures they will implement to reduce flaring. The regulation by design ensures that the most cost effective means for achieving this goal will be implemented. That is, it is reasonable to expect that each refinery, given the flexibility provided by the structure of the rule, will include the most cost-effective prevention measures available for each iteration of the flare minimization plan, thus insuring the continuous improvement at the least cost.

This was the determination of the District in adopting the current flare control rule. The conclusion is equally applicable to the proposed amendments.

B. Discussion

Determination and Reporting of Cause

The cost for the determining and reporting of cause is dependant on the number of reportable flaring events and the complexity of each event. The data from the flare monitoring monthly reports, which was used in the cost analysis for Regulation 12-12, shows 243 occurrences where the volume of vent gas flared was greater than 500,000 scfd in 2004 for all facilities. In the development of Regulation 12-12, staff estimated costs of determining and reporting cause at an hourly rate of \$50.00 per hour for 12 hours per event. The total was approximately \$145,800 for all facilities per year. The cost for an individual refinery will be much less. Moreover, staff expected this cost to drop in time as

¹ California Health and Safety Code section 40910

facilities minimize the number of events and become more proficient in investigations.

The initial cost analysis was based on a hypothetical 67 events per facility. A review of Table 1 shows that, even including lower-volume flaring where sulfur dioxide emissions exceed 500 pounds per day, no facility would have had reportable flaring events in excess of 67 events in 2005. Staff anticipates the downward trend in the number of reportable flaring events to continue, with a concomitant drop in these costs. Therefore, although there may be additional causal analyses required in the first year (or two) of implementation of the flare control rule under this proposal, the additional causal analyses required by these amendments will create no significant increase in the costs assumed for the current version of Regulation 12, Rule 12: Flares at Petroleum Refineries when adopted in July of 2005.

Prevention Measures

The cost effectiveness analysis for Regulation 12, Rule 12 was estimated for two scenarios selected to represent the range of options among prevention measures. The first estimate, representing a costly prevention measure, considered an example of a refinery that had performed a hazard analysis for Contra Costa County and had upgraded the flare gas recovery system. A less costly prevention measure was also considered where startup and shutdown schedule adjustments resulted in a reduction of flaring, which included cost of lost production. The costs of these prevention measures were estimated to vary from \$1,603 to \$1,527 per ton of all pollutants for the first year and from \$800 to \$1500 per ton thereafter.

Currently, Regulation 12, Rule 12 requires the prevention measures developed for the lower-volume events to be included in the FMPs following inclusion in an annual report. While the proposed amendments may result in earlier implementation of one or more prevention measures, the costs of those measures would not exceed those identified when Regulation 12-12 was originally proposed and adopted.

Annual Reports and Updates

The proposed administrative amendments merely change the scheduling of the analysis and reporting of lower-volume flaring. Under the current rule, all flaring with sulfur dioxide emissions in excess of 500 pounds per day per day is addressed in a report to be submitted 12 months after approval of the initial FMP and annually thereafter. As amended, these events will have to be analyzed in a report submitted within 60 days following the end of the month in which the flaring occurs, consistent with the high volume events. Although, as discussed above, there may be more causal analyses required in the first year (or two) under the program, and prevention measures associated with these events may be scheduled for implementation earlier, the costs will not exceed the costs

estimated for implementation of the current rule. Refineries will not, however, incur the costs of preparing the annual report.

C. Socioeconomic Impacts

Section 40728.5 of the Health and Safety Code requires an air district to assess the socioeconomic impacts of the adoption, amendment, or repeal of a rule if the rule is one that “will significantly affect air quality or emissions limitations.” Applied Economic Development of Berkeley, California, prepared a socioeconomic analysis for the initial proposed Regulation 12, Rule 12: Flares at Petroleum Refineries. The analysis concludes that the affected refineries should be able to absorb the costs of compliance with the proposed rule without significant economic dislocation or loss of jobs.

The proposed amendments are administrative changes; they expedite reporting of lower-volume events so that any prevention measures specifically developed for this type of flaring can be incorporated into the initial FMP. The affect on air quality and emissions will result from the various measures refineries put into place to reduce flaring, not from these administrative requirements. In any event, the proposed amendments would not change the conclusion of the socioeconomic analysis for the initial proposed Regulation 12, Rule 12: Flares at Petroleum Refineries.

D. District Staff Impacts

In the staff report for the adopted Regulation 12-12, staff identified that it will take a total of 1.5 FTE at an average staff level of a Senior Engineer to implement the rule. The total cost was estimated to exceed \$250,000. The proposed amendments do not add significantly to staff impacts, and in some cases may reduce those impacts. By specifying that the refinery must provide the volume of vent gas and calculated emission data, staff resources necessary to perform the calculations from raw data will not be needed. In addition, staff time will no longer be required to review annual reports.

VI. ENVIRONMENTAL IMPACTS

Pursuant to the California Environmental Quality Act, the District prepared an Initial Study during the development of the original flare control rule (Regulation 12, Rule 12) to determine whether it would result in any significant environmental impacts. The study and subsequent Environmental Impact Report discussed certain potential significant environmental impacts, but ultimately concluded that the proposed rule would not have any significant adverse environmental impacts. Based on this determination (and others), the District adopted the flare control rule in July of 2005.

The amendments now proposed are administrative changes to the original flare control rule; they expedite reporting and development of prevention measures

and incorporation of lower-volume events into the initial FMP. The District has determined that there is no possibility the proposed amendments could cause any significant environmental effect; therefore, they are exempt from the provisions of CEQA in accordance with State CEQA Guidelines section 15061(b)(3). In fact, the amendments would not constitute a “project” under CEQA because they do not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. (Public Resource Code section 21065; State CEQA Guidelines section 15378.)

VII. REGULATORY IMPACTS

Section 40727.2 of the Health and Safety Code requires an air district, in adopting, amending, or repealing an air district regulation, to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in district rules. The district must then note any differences between these existing requirements and the requirements imposed by the proposed change. Table 2 is a matrix of the thresholds and reporting requirements, including the responsible agency.

Table 2. Reporting Thresholds and Requirements

Agency	Regulation	Requirement	Threshold	Responsible Agency
BAAQMD	Reg. 12-12	Causal Analysis	> 500,000 scfd	BAAQMD
EPA	Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(r) of the Clean Air Act	Notification to Local Emergency Response Committee/Agency	500 lbs SO ₂ 100 lbs Hydrogen Sulfide	Local Emergency Response Committee/Agency
BAAQMD	Reg. 12-12 Proposed Amendments	Causal Analysis	Any flaring greater than 500 lbs/day of SO ₂	BAAQMD

Federal Requirements

Federal Title 3 requirements include reporting and planning provisions at specified thresholds. The focus of these requirements is emergency response and community right to know. Adequate release response plans and timely notification to responsible agencies are required.

EPA has entered into consent decrees with all Bay Area refineries. These

decrees, among other requirements, contain increments of progress for the application of New Source Performance Standards (NSPS) to all flares. NSPS limit sulfur oxides in vent gases combusted in a flare installed after June 11, 1973 (40 CFR Part 60, Subpart J, Section 60.104). Flaring caused by upset gases or fuel gas from relief valve leakage or other emergency malfunctions is exempt from the standard.

VIII. RULE DEVELOPMENT PROCESS

A. Introduction

Staff posted a request for comments on the proposed amendments to Regulation 12-12 on December 23, 2005. Three written comments were received in support of the proposed amendments.

As part of the development of the original regulation staff had undertaken an extensive rule development process in order to receive input from all affected parties. These efforts included the formation of a technical working group, public meetings, workshops and presentations to the District Board of Directors Stationary Source Committee. This process is described in the staff report for Regulation 12, Rule 12: Flares at Petroleum Refineries.

Staff has formed an implementation team to ensure thorough review of and compliance with the causal analyses and prevention measures submitted to the District by each facility. The team consists of District staff from the Engineering, Enforcement, Planning and Legal Divisions. The team meets regularly to evaluate submittals and make recommendations, which have been incorporated into the proposed amendments. In addition, the team meets with refinery staff as questions and the need for clarification and consistency arise.

B. Stationary Source Committee Reports

At the flare control rule adoption hearing on July 20, 2005, staff was directed to provide an update to the Stationary Source Committee on the cumulative impacts of a lower threshold for causal analysis. The minutes of that meeting can be found at on the District's web site at the following address, (http://www.baaqmd.gov/brd/brddirectors/agendas_minutes.htm).

Staff has reported to the Stationary Source Committee at each meeting since rule adoption. At the meeting of November 28, 2005 the Committee recommended consideration of amendments to include a causal analysis of lower-volume flaring where 500 pounds per day of SO₂ is emitted on the same schedule as for events involving flaring of vent gas at flow rates in excess of 500,000 scfd. The agenda of that meeting can be found on the District's web site at the same address.

C. Public Comment

The proposed rule amendments were made available for public comment initially on December 23, 2005 on the District's web site. Two comments expressed concern over proposed language in the definition of a reportable flaring event. The proposed language, which was intended to define the end of a reportable flaring event by specifying a volume of vent gas as the endpoint, was deemed confusing. As suggested, it has been deleted. The definition as proposed identifies the end of an event as either a specified rate or when water seal integrity is established and explains that for certain systems where more than one flare may burn vent gas, the total volume is calculated on a cumulative basis.

IX. CONCLUSION

The proposed amendments to Regulation 12, Rule 12: Flares at Petroleum Refineries, are intended to ensure that information about lower-volume flaring where sulfur dioxide emissions are greater than 500 pounds per day is available for inclusion in the initial Flare Minimization Plans. Pursuant to Health and Safety Code Section 40727, new regulations must meet standards of necessity, authority, clarity, consistency, non-duplicity and reference. The proposed amended regulation is:

- Necessary to protect public health by reducing ozone precursor emissions, and to reduce exposures to toxic air contaminants, sulfur dioxide and particulate matter by insuring that feasible prevention measures to reduce or avoid use of flares at petroleum refineries are identified and scheduled for implementation on an expedited schedule;
- Authorized by California Health and Safety Code section 40702;
- Clear, in that the new regulation specifically delineates the affected industry, compliance options and administrative requirements for industry subject to this rule;
- Consistent with other District rules, and not in conflict with State or federal law;
- Non-duplicative of other statutes, rules or regulations; and
- The proposed regulation properly references the applicable District rules and test methods and does not reference other existing law.

The proposed amendments are not subject to CEQA because they do not constitute a "project" as defined in State law and the CEQA Guidelines and because it can be determined with certainty that the amendments have no possibility of causing any significant environmental effects.

The proposed amendments will not increase the costs of implementing Regulation 12, Rule 12: Flares at Petroleum Refineries. Staff has analyzed the cost of the additional causal analysis and found them to be within the total number of analysis projected in the original adoption of Regulation 12, Rule 12 and the potential for early implementation of one or more prevention measures would not increase the costs estimated for the adoption of the current rule.

Staff recommends the adoption of the proposed amendments to Regulation 12: Miscellaneous Standards of Performance, Rule 12: Flares at Petroleum Refineries, and approval of the filing of a CEQA Notice of Exemption.

APPENDIX

COMMENTS AND RESPONSES

After comments were received on the draft proposal and changes made to the proposal as described in the staff report, staff provided notice of the public hearing, the text of the proposed amendments, and a copy of the staff report on the District's web site on March 3, 2006. Notice was also provided to interested parties via e-mail and in newspapers of general circulation. One comment letter was received from Communities for a Better Environment in support of the proposed amendments. Three points were expressed in their letter: 1) to adopt the proposed amendments immediately in order to develop prevention measures for the lower-volume flaring events on the same schedule as higher-volume flaring events; 2) to require root cause analysis for low-flow, high hydrocarbon emission flaring as soon as practicable in the near future; and 3) CBE appreciates District staff's findings that flaring causes localized air impacts. Staff does not propose any revisions to the proposed amendments based on these comments at this time.