



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## BOARD OF DIRECTORS' REGULAR MEETING

APRIL 16, 2008

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

### Questions About an Agenda Item

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

### Meeting Procedures

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

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

# BOARD OF DIRECTORS' REGULAR MEETING

## A G E N D A

WEDNESDAY  
APRIL 16, 2008  
9:45 A.M.

BOARD ROOM  
7TH FLOOR

### CALL TO ORDER

Opening Comments  
Roll Call  
Pledge of Allegiance  
Proclamations/Commendations

Chairperson, Jerry Hill  
Clerk of the Board

### 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.*

### CONSENT CALENDAR (ITEMS 1 – 6)

Staff/Phone (415) 749-

1. Minutes of April 2, 2008  
V. Johnson/4941  
[vjohnson@baaqmd.gov](mailto:vjohnson@baaqmd.gov)
2. Communications  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)  
*Information only.*
3. Quarterly Report of Air Resource Board Representative Honorable Jerry Hill  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)
4. Quarterly Report of the Executive Office Activities  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)
5. Set a Public Hearing for May 21, 2008 to consider adoption of proposed amendments to District Regulation 3: Fees, and approval of filing of a Notice of Exemption from the California Environmental Quality Act  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)
6. Consider Approval of Board of Director and Advisory Council Members Attendance at the 101<sup>st</sup> Annual Air & Waste Management Association Conference and Exhibition in Portland, Oregon  
J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)  
*The Board of Directors will consider approval of attendance of 5 Board members and 5 Advisory Council members to the 101<sup>st</sup> Annual Air & Waste Management Association Conference and Exhibition to be held in Portland, Oregon June 24-27, 2008.*

## **COMMITTEE REPORTS AND RECOMMENDATIONS**

7. Report of the **Personnel Committee** Meeting of April 4, 2008

**CHAIR: H. BROWN**

**J. Broadbent/5052**

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

*Action(s): The Committee recommends Board of Directors' approval to reappoint Julio Magalhães and Terry Trumbull to fill the Regular Public Member category and Peter Chiu and Richard Grundy to fill the Alternate Public Member category on the Air District's Hearing Board.*

8. Report of the **Executive Committee** Meeting of April 10, 2008

**CHAIR: J. HILL**

**J. Broadbent/5052**

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

## **PUBLIC HEARING**

9. Public Hearing to Consider Testimony on Proposed Amendments to the Air District's Regulation 3: Fees

**B. Bateman/4653**

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

*Proposed amendments to District Regulation 3: Fees, will help the Air District recover a greater share of the costs incurred to implement and enforce regulatory programs for stationary sources. Under California Health and Safety Code 41512.5, certain fee schedules require an initial public hearing to be held at least 30 days prior to the date at which adoption or revision of the fee schedules will be considered by the district board. A second and final public hearing to consider adoption of the amendments will be held on May 21, 2008.*

## **CLOSED SESSION**

10. **Closed Session with Air District's Labor Negotiators**  
(Government Code § 54957.6(a))

*Agency Negotiators: Jack P. Broadbent, Executive Officer/APCO*

*Michael Rich, Human Resources Officer*

*Employee Organization: Bay Area Air Quality Management District Employees' Association, Inc.*

11. **Conference with Legal Counsel – Litigation**

*Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):*

**San Francisco Chapter of the A. Philip Randolph Institute, et al. v. United States Environmental Protection Agency, Bay Area Air Quality Management District, Mark Ross**, United States District Court, Northern District of California, Case No. C 07 4936  
JCS

## OPEN SESSION

### OTHER BUSINESS

12. Report of the Executive Officer/APCO
13. Chairperson's Report
14. 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)*

15. Time and Place of Next Meeting - 9:45 a.m., Wednesday, May 7, 2008- 939 Ellis Street, San Francisco, CA 94109
16. Adjournment

**CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET SF, CA 94109**

**(415) 749-5127**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://www.baaqmd.gov)

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

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
**939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109**  
**(415) 771-6000**

**EXECUTIVE OFFICE:**  
**MONTHLY CALENDAR OF DISTRICT MEETINGS**

**APRIL 2008**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Advisory Council Public Health Committee</b> <i>(Meets 2<sup>nd</sup> Wednesday of each even Month)</i>	Wednesday	9	1:30 p.m.	Board Room
<b>Advisory Council Air Quality Planning Committee</b> <i>(Meets 1<sup>st</sup> Thursday of each even Month)</i>	Thursday	10	9:30 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(At the Call of the Chair)</i>	Thursday	10	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
<b>Joint Policy Committee - CANCELLED</b>	Friday	18	10:00 a.m. – 12:00 p.m.	BCDC 50 California St., 26 Fl. San Francisco, CA
<b>Board of Directors Legislative Committee</b> <i>(Meets 4<sup>th</sup> Monday of every Month)</i>	Monday	21	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> <i>(Meets 4<sup>th</sup> Wednesday of each month)</i>	Wednesday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> – <i>(Meets 4<sup>th</sup> Thursday of each Month)</i> - CANCELLED	Thursday	24	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Legislative Committee</b> <i>(Meets 4<sup>th</sup> Monday of every Month)</i> – RESCHEDULED TO MONDAY, APRIL 21, 2008	Monday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

**MAY 2008**

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Public Outreach Committee</b> <i>(Meets 1<sup>st</sup> Thursday every other Month)</i>	Monday	5	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Regular Meeting</b> <i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
<b>Board of Directors Executive Committee</b> <i>(Meets At the Call of the Chair)</i>	Monday	12	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Advisory Council Regular Meeting</b> <i>(Meets 2<sup>nd</sup> Wednesday of every odd Month)</i> – RESCHEDULED TO THURSDAY, MAY 15, 2008	Wednesday	14	10:00 a.m.	Board Room

## MAY 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Board of Directors Mobile Source Committee</b> – (Meets 4 <sup>th</sup> Thursday of each Month)	Wednesday	14	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Advisory Council Regular Meeting</b> (Meets 2 <sup>nd</sup> Wednesday of every odd Month)	Thursday	15	9:00 a.m.	Board Room
<b>Advisory Council Executive Committee</b> (Meets 2 <sup>nd</sup> Wednesday of every odd Month)	Thursday	15	Immediately Following the Advisory Council Regular Meeting	Room 716
<b>Board of Directors Climate Protection Committee</b> (Meets 3 <sup>rd</sup> Thursday every other Month)	Thursday	15	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Joint Policy Committee</b>	Friday	16	10:00 a.m. – 12:00 p.m.	MTC 101 - 8 <sup>th</sup> Street Oakland, CA 94607
<b>Board of Directors Regular Meeting</b> (Meets 1 <sup>st</sup> & 3 <sup>rd</sup> Wednesday of each Month)	Wednesday	21	9:45 a.m.	Board Room
<b>Board of Directors Mobile Source Committee</b> – (Meets 4 <sup>th</sup> Thursday of each Month) <b>RESCHEDULED TO WEDNESDAY, MAY 14, 2008</b>	Thursday	22	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> (Meets 4 <sup>th</sup> Wednesday of each month)	Wednesday	28	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

## JUNE 2008

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
<b>Advisory Council Technical Committee</b> (Meets 1 <sup>st</sup> Monday of every even Month)	Monday	2	9:30 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> (Meets 1 <sup>st</sup> & 3 <sup>rd</sup> Wednesday of each Month)	Wednesday	4	9:45 a.m.	Board Room
<b>Advisory Council Public Health Committee</b> (Meets 2 <sup>nd</sup> Wednesday of every even Month)	Wednesday	4	1:30 p.m.	Room 716
<b>Advisory Council Air Quality Planning Committee</b> (Meets 1 <sup>st</sup> Thursday of every even Month)	Thursday	5	9:30 a.m.	Room 716
<b>Board of Directors Stationary Source Committee</b> (Meets 3 <sup>rd</sup> Monday quarterly)	Monday	16	9:30 a.m.	Board Room
<b>Board of Directors Regular Meeting</b> (Meets 1 <sup>st</sup> & 3 <sup>rd</sup> Wednesday of each Month)	Wednesday	18	9:45 a.m.	Board Room
<b>Board of Directors Legislative Committee</b> (Meets 4 <sup>th</sup> Monday of every Month)	Monday	23	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Budget &amp; Finance Committee</b> (Meets 4 <sup>th</sup> Wednesday of each month)	Wednesday	25	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room
<b>Board of Directors Mobile Source Committee</b> – (Meets 4 <sup>th</sup> Thursday of each Month)	Thursday	26	9:30 a.m.	4 <sup>th</sup> Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 9, 2008

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of April 2, 2008.

DISCUSSION

Attached for your review and approval are the draft minutes of the April 2, 2008 Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

## BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Draft Minutes: Board of Directors' Regular Meeting– April 2, 2008

### **Call To Order**

Opening Comments: Chairperson Jerry Hill called the meeting to order at 9:45 a.m.

Roll Call: Present: Jerry Hill, Chair, Tom Bates (9:46a.m.), Harold Brown, Chris Daly (9:50 a.m.), Dan Dunnigan (9:46 a.m.), Erin Garner (10:20 a.m.), Scott Haggerty, Carol Klatt, Liz Kniss, Janet Lockhart, Jake McGoldrick, Mark Ross, Michael Shimansky, John Silva, Tim Smith, Pam Torliatt, Gayle B. Uilkema, Brad Wagenknecht.

Absent: John Gioia, Yoriko Kishimoto, Ken Yeager.

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

Both Directors Bates and Dunnigan arrived during the Pledge of Allegiance.

**Public Comment Period:** – The Chair called for public comment and there were two speakers. The following individuals spoke on issues relating to Hansen Permanente Cement Company and diesel truck emissions.

Karen Del Compare  
WNCAW  
10136 Camino Vista Drive  
Cupertino, CA 95014

Joyce M. Eden  
West Valley Citizens Air Watch  
Cupertino, CA 95014

### **CONSENT CALENDAR (ITEMS 1 – 4)**

1. Minutes of March 19, 2008
2. Communications

*Information only.*

3. 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 there was no Air District personnel on out-of-state business travel for the month of March 2008.*



4. Set Public Hearing for April 16, 2008 to Consider Testimony on Proposed Amendments to District Regulation 3: Fees, and set a Final Public Hearing for June 4, 2008 to Consider Adoption of these Amendments and Approval of a Notice of Exemption from CEQA

*Proposed amendments to District Regulation 3: Fees, will help the Air District recover a greater share of the costs incurred to implement and enforce regulatory programs for stationary sources. Under California Health and Safety Code 41512.5, certain fee schedules require an initial public hearing to be held at least 30 days prior to the date at which adoption or revision of the fee schedules will be considered by the district board. The first public hearing to receive testimony on proposed amendments to the District's fee regulation will be held on April 16, 2008. A second public hearing to consider adoption of the amendments will be held on June 4, 2008.*

**Board Action:** Director Wagenknecht moved approval of Consent Calendar; seconded by Director Silva; carried unanimously without opposition.

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

5. Report of the Budget and Finance Committee Meeting of March 26, 2008

Director Daly presented the report and stated that the Budget and Finance Committee met on Wednesday, March 26, 2008.

The Committee received an overview of past and current Air District reserve funds. This item was provided for information. Staff was provided direction from the Committee.

The Committee received a report on the Proposed Budget for Fiscal Year 2008/2009 for consideration and discussion. The proposed consolidated budget for Fiscal Year 2008/2009 is \$74.5 million dollars and is a balanced budget. Continued discussions on the proposed budget will be held at the April 23, 2008, Budget and Finance Committee meeting. Staff was provided direction from the Committee.

Finally, the Committee considered recommending Board of Directors' approval to authorize the Executive Officer/APCO to execute all necessary agreements with the California Air Resources Board relative to the Air District's acceptance of up to \$35 million in Goods Movement Emission Reduction Program funds for fiscal year 2008/2009. The Air District will provide financial incentives to owners of equipment used in freight movement, including trucks, locomotives, ships etc., to upgrade to cleaner technologies. The Committee recommends that the Board of Directors' authorize the Executive Officer/APCO by resolution to accept funds, provide matching funds, and execute all necessary contract agreements with the California Air Resources Board and eligible equipment owners.

The next meeting is scheduled for 9:30 a.m., Wednesday, April 23, 2008.

**Board Action:** Director Daly moved that the Board of Directors approve the report of the Budget and Finance Committee; seconded by Director Shimansky carried unanimously without opposition.

7. Overview of Air District's Integrated Priority Communities Strategy for Grant Funding Programs

Mr. Broadbent thanked the Board of Directors for taking this item out of order, to better inform and provide some context from the Mobile Source Committee and discuss the recommendation to the Board members.

Mr. Broadbent stated that this is a continuation of a discussion from the Board of Directors Retreat, held in January 2008. It was discussed that the findings of the CARE program and staff's belief that the elevated diesel particulate risks that are seen through the CARE program should be dealt with. The Air District will be the recipient of monies through the Goods Movement Infrastructure Bond Program, and that there will be an integrated strategy where the Air District attempts to use the money that is available, to deal with significant health threats in the impacted communities.

Mr. Broadbent highlighted the following:

- CARE Objectives and Results
- Priority Communities
- I-Bond Overview
- I-Bond Application
- Match Funding for I-Bond
- Next Steps

The CARE program objectives include:

- Estimate health risks associated with exposure to toxic air contaminants;
- Developed preliminary emissions inventory; and
- Devise strategy to mitigate health effects

Below are the communities that are experiencing the high risk levels. In addition, the communities also have generally lower incomes. These communities include the following:

- Concord;
- Richmond;
- West Oakland;
- East Oakland/San Leandro;
- Eastern San Francisco; and
- San Jose

The best scientific tool being applied is to quantify and characterize what is believed to be the significant health threats in the Bay Area. Much of the regulatory authority to deal with trucks, ships and trains lies with the state or EPA. EPA states that their authority is somewhat limited on ships that traverse the globe. One of the tools available is to target grant resources that are available, as most regulatory initiatives are focused on new trucks or new trains. The problem is how to clean up the existing fleet.

The following funds and programs are available:

- |                                                 |                    |
|-------------------------------------------------|--------------------|
| - Carl Moyer Program (CMP):                     | \$11 million       |
| - TFCA Regional:                                | \$12 million       |
| - TFCA County Manager:                          | \$10 million       |
| - Mobile Source Incentive Fund (MSIF) – SB 923: | \$10 million       |
| - I-Bond:                                       | up to \$35 million |

Funding cycles for these programs are as follows:

- CMP Closes - April 4
- TFCA Regional Opens - April 22
- TFCA CMA Plans due - April 30
- MSIF closes – April 4
- I-Bond Application due - April 4

California voters voted on the I-Bond in November 2006, and authorized \$1 billion in bond funding to quickly reduce the health risk associated with the movement of goods in and around the trade corridors in California. There are currently 4 different regions in California that will be addressed as part of the trade corridors. These include the Bay Area, Central Valley; which includes Sacramento Trade Corridor Region, Southern California and the San Diego region.

Funding Split:

- Early Grants - \$25 million
- Main Grant - \$225 million

In terms of the Bay Area, on February 28, 2008, the California Air Resources Board (ARB) decided to allocate as much as \$140 million to the Bay Area to deal with the emissions associated with the trade corridor over the next 4 years. In addition an early grant application was approved that would involve electrifying 2 APL berths at the Port of Oakland and retrofitting 75 trucks at the Port of Oakland as well.

I-Bond application plan includes the following:

- ARB requires local agencies seeking funding to submit an application
- Application is formatted as a plan describing how the Air District will spend funds
- Applications due April 4, 2008

The Air District's plan will be kept general enough, but meeting CARB's requirements, so that the Mobile Source Committee and the Board of Directors will have the opportunity to weigh in.

The request for funding will be as follows:

<b>Project Type</b>	<b>Funding Requested</b>
Port Drayage Trucks – Retrofits/Repowers	\$6 million
Goods Movement Trucks*	\$18.5 million
Locomotives	\$5.2 million
Ship Berth Electrification/Cargo Handling Equipment	\$2.8 million
Marine Harbor Craft	\$2.5 million
<b><u>Total</u></b>	<b>\$35 million</b>

Mr. Broadbent concluded his presentation by stating that this is a significant program and there are numerous resources being focused to reduce emissions in impacted communities.

Director Garner arrived at 10:20 a.m.

Director Miley commented that he supports the direction the Air District is moving and stated that some of the communities in West Oakland and East Oakland are challenged and targeting those resources to address some of the air disparities would help. In addition, Director Miley stated that the Port of Oakland is a major economic contributor to the region and anything that the Air District can do to ensure the clean up of the Port, in particular with the truckers, is vital.

Director Torliatt asked about the 6 impacted areas and stated that it appears the areas of concentration are centered around the Port of Oakland. Mr. Broadbent responded to Director Torliatt and stated that when one thinks about Goods Movement Trucks the majority are going to be on the trade corridor which includes I-80 and I-580, which extends to the Altamont Pass, as those are the major corridors that service the Bay Area and the intent of the I-Bond monies are to target those corridors and deal with the particulate health risks in those corridors.

Chairperson Hill stated that a lot of the work that is done at CARB related to the on-road diesel rule to be implemented this year will reduce 80% to 90% of the particulate matter pollution coming from these vehicles in the next 5 to 10 years.

Director Haggerty expressed his concerns regarding the local trucking companies and would like more information regarding the outreach that the Air District is looking for with regard to the trucking companies. Mr. Broadbent responded to Director Haggerty, stating that at present, the Air District is in the process of outreaching to the trucking firms, as the truckers are facing a regulatory deadline, so there should be some motivation for them to work with the Air District. Mr. Broadbent further stated that of the Goods Movement monies, \$20 million will be designated for on-road trucks. At this time the most concern is with the drayage trucks.

Director Miley stated that he will have the Public Health Department of Alameda County forward the studies to the Air District, as the report will provide information on the health risk factors.

Mr. Broadbent concluded his comment by stating that at the last CARE Task Force meeting, there were a wide variety of representatives of the various communities that are in favor of this approach, and that this approach is an important stride towards addressing their concerns. Although there is still a disconnect between some of the community representatives who see the large stationary sources in their neighborhood and believe that is what is polluting and this is something that the Air District will continue to work on over time.

**Board Action:** Director Torliatt requested more information about the method by which the Board of Directors is made aware of the work in those 6 impacted areas. Director Kniss requested a report on the actual interaction between the Air District and the community regarding the Hansen Permanente Cement site.

6. Report of the Mobile Source Committee Meeting of March 27, 2008

Director Smith presented the report and stated that the Mobile Source Committee met on Thursday, March 27, 2008.

The Committee was provided an overview of the Air District's Integrated Priority Communities Strategy for Grant Funding programs to address and reduce diesel particulate emissions in highly impacted communities as identified by the CARE Program. The Committee provided direction to staff.

The Committee was provided an informational update on the California Goods Movement Infrastructure Bond Program, including the Air District's application for early funding and milestones for the disbursement of the main grant funding and next steps. The Committee provided direction to staff.

The Committee considered staff recommendations for Board of Directors' approval of the proposed fiscal year 2008/2009 Transportation Fund for Clean Air (TFCA) Regional Fund Policies and Evaluation Criteria and the Allocation of \$1,000,000 in TFCA Regional Funds to Clean Air Vehicle Advanced Technology Demonstration projects that meet the Fiscal Year 2008/2009 TFCA Regional Fund Policies. There was one member of the public to speak on this item. The Committee recommends that the Board of Directors' approve:

- 1) Proposed Revisions to Fiscal Year 2008/2009 TFCA Regional Fund Policies and Evaluation Criteria to govern allocation of FY 2008/2009 TFCA funds; and
- 2) The allocation of \$1,000,000 in TFCA Regional Funds to the Clean Air Vehicle Advanced Technology Demonstration projects that meet the Fiscal Year 2008/2009 Regional Fund policies with any portion that remains unallocated following that funding cycle reverting back to the TFCA Regional Funds for general use.

Finally, the Committee considered the Bicycle Facility Program: Fiscal Year 2007/2008 Annual Report, and Proposed Guidelines and Allocation of Funds for Fiscal Year 2008/2009. There was one member of the public to speak on this item. The Committee recommends that the Board of Directors:

- 1) Receive and File the Annual Report for the Bicycle Facility Program for Fiscal Year 2007/2008;
- 2) Approve the Proposed Bicycle Facility Program Guidelines, presented in Attachment B, for use in Fiscal Year 2008/2009 and in subsequent years; and
- 3) Approve the allocation of \$600,000 in TFCA Regional Funds to the Bicycle Facility Program for Fiscal Year 2008/2009 and authorize the Executive Officer/APCO to execute funding agreements in accordance with Board of Director's approved Bicycle Facility Program Guidelines.

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

**Board Action:** Director Smith moved that the Board of Directors approve the report of the Mobile Source Committee; seconded by Director Dunnigan; carried unanimously without opposition.

### **Other Business**

8. Report of the Executive Officer/APCO

Mr. Broadbent introduced Lisa Fasano, Senior Policy Advisor, and stated that Ms. Fasano will be heading up the Public Outreach and Information Office.

Mr. Broadbent also mentioned the Notice of Public Meetings for the new proposed Regulation 6, Rule 3: Wood-Burning Devices. There will be a series of informational meetings. Mr. Broadbent encouraged the Board of Directors to attend.

9. Chairperson's Report – There was none, but Chairperson Hill requested that the information regarding the Notice of Public Meetings for Wood-Burning Devices be sent electronically to the Board of Directors.
10. Board Members' Comments – Director Daly reminded staff that there should be a follow up meeting regarding the NOV's at the Hunters' Point Shipyard. Mr. Broadbent stated that were a number of community representatives that attended the previous Board meeting and issues were raised regarding PSC, and Lennar among other facilities. Staff agreed at the next Stationary Source Committee meeting, the Committee would be provided with a summary of each of the issues, which will include the Lennar/Bayview Hunters' Point efforts. Director Daly further requested information regarding the follow up on the NOV's and the timeline. Mr. Bunger responded to Director Daly stating that because this is a legal negotiation between parties, no timeline can be provided. The Air District has met and will continue to meet with the community members.

11. **Time and Place of Next Meeting** – 9:45 a.m., Wednesday, May 7, 2008 – 939 Ellis Street, San Francisco, CA 94109
12. **Adjournment** – The meeting adjourned at 11:15 a.m.

Vanessa Johnson  
Acting Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Board Communications Received from April 2, 2008 through April 15, 2008

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications received by the Air District from April 2, 2008 through April 15, 2008, if any, will be at each Board member's place at the April 16, 2008, Regular Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
 Memorandum

TO: Chairperson Jerry Hill and  
 Members of the Board of Directors

FROM: Jack P. Broadbent  
 Executive Officer/APCO

DATE: April 7, 2008

RE: Quarterly Report of the Executive Office: January 1 – March 31, 2008

RECOMMENDED ACTION

This report is provided for information only.

DISCUSSION

Listed below is the status of minutes for the Board of Directors, Advisory Council and activities of the Hearing Board for the first quarter of 2008:

**Board of Directors**

<b><u>Meeting Type</u></b>	<b><u>Meeting Date</u></b>	<b><u>Status of Minutes</u></b>
Regular Meeting / Retreat	January 16	Minutes Approved
Regular Meeting	February 20	Minutes Approved
Regular Meeting	March 5	Minutes Approved
Regular Meeting	March 19	Minutes Approved
Budget & Finance Committee	February 27	Minutes Approved
Budget & Finance Committee	March 26	Minutes Completed/Pending Approval
Mobile Source Committee	March 27	Minutes Completed/Pending Approval
Legislative Committee	February 25	Minutes Completed/Pending Approval
Stationary Source Committee	March 17	Minutes Completed/Pending Approval
Climate Protection Committee	March 13	Minutes Completed/Pending Approval
Public Outreach Committee	February 14	Minutes Approved
Public Outreach Committee	March 3	Minutes Completed/Pending Approval

## Advisory Council

<u>Meeting Type</u>	<u>Meeting Date</u>	<u>Status of Minutes</u>
Regular Meeting	January 9	Minutes Approved
Regular Meeting	March 12	Minutes Completed/Pending Approval
Executive Committee	January 9	Minutes Approved
Executive Committee	March 12	Minutes Completed/Pending Approval
Public Health Committee	February 13	Minutes Approved
Technical Committee	February 11	Minutes Approval
Air Quality Planning Committee	February 7	Minutes Completed/Pending Approval

## Hearing Board

1. During the Period January – March, the Hearing Board dealt with 5 five Dockets on 5 hearing days.
2. A total of \$9,447 was collected as Hearing Board fees and \$36.69 was collected as excess emission fees during the first quarter of 2008.
3. At the April 10, 2008, Board of Director's Executive Committee meeting, Hearing Board member Terry Trumbell will present the Hearing Board Quarterly Report for the period January - March 2008.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

G/Board/Quarter.doc

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Set Public Hearing for May 21, 2008 to Consider Adoption of Proposed  
Amendments to District Regulation 3: Fees, and Approval of a Notice of  
Exemption from CEQA.

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RECOMMENDED ACTION:

Set a Public Hearing for May 21, 2008 to consider adoption of proposed amendments to District Regulation 3: Fees, and approval of filing of a Notice of Exemption from the California Environmental Quality Act.

DISCUSSION

Two public hearings are needed for the adoption of amendments to the District's Fee Regulation. The first public hearing on this matter has been set for April 16, 2008. District staff recommends that the second public hearing be set for May 21, 2008. This is a revised date for this public hearing, which had been previously set for June 4, 2008. The revised date will help assure that adequate time is provided for consideration of adoption of the District's FYE 2009 Budget at the June 4, 2008 Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Brian Bateman  
Reviewed by: Jeffrey Mckay

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Consider Approval of Board of Directors and Advisory Council Members  
Attendance at the 101<sup>st</sup> Annual Air & Waste Management Association  
Conference and Exhibition

---

RECOMMENDED ACTION

Approve attendance of 5 Board of Directors and 5 Advisory Council Members at the 101<sup>st</sup> Annual Air & Waste Management Association Conference and Exhibition in Portland, Oregon.

BACKGROUND

Assembly Bill 1234, Salinas, which became effective January 1, 2006, imposed certain new requirements regarding payment of compensation and reimbursement for expenses to members of bodies subject to the requirements of the Brown Act.

The Board of Directors at its meeting of March 15, 2006, adopted a written policy to address this requirement. Pursuant to Administrative Code Operating Policies and Procedures of the Board of Directors: Division I Section 1.2 B: Limits on Compensation for Meeting Attendance; compensation for attendance at meetings held outside the State of California must be approved by the Board of Directors in open session prior to attendance at the meeting.

DISCUSSION

Requests have been received to attend the 101<sup>st</sup> Annual Air & Waste Management Association's Conference and Exhibition June 24-27, 2008 in Portland, Oregon. The following Board and Advisory Council members request approval of the Board of Directors to attend:

Vice-Chair, Pamela Torliatt, Secretary, Brad Wagenknecht, Directors Scott Haggerty Michael Shimansky, and Mark Ross. Advisory Council members requesting approval include: Vice-Chair Harold Brazil, Dr. Robert Bornstein, John Holtzclaw, Linda Wiener and Dr. Robert Huang.

Members must provide a brief report on the meeting attended at the Air District's expense at the next regular Board or Advisory Council meeting following their attendance.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funds for Board of Directors and Advisory Council members attending the Air & Waste Management Association Conference and Exhibition are contained in the fiscal year 2007/2008 budget for Programs 121 and 123.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Report of the Personnel Committee Meetings of April 4, 2008

RECOMMENDED ACTION:

The Committee recommends the re-appointment of Julio Magalhaes and Terry Trumbull to fill the Regular Public Member category and the re-appointment of Peter Chiu and Richard Grundgy to fill the Alternate Public Member category on the Air District's Hearing Board. Each appointment is for a 3-year term of office. The Public members and Alternate member categories terms ended April 2, 2008. The reappointments will be effective upon Board of Directors' ratification.

BACKGROUND:

Pursuant to Section 40800 of the California Health and Safety Code the District is required to maintain a Hearing Board consisting of five members. Further, section 40801 requires two Hearing Board Public members. Section 40800 allows the District to appoint one alternate for each member of the Hearing Board with the same qualifications specified in Section 40801. The alternate serves for the same term as the member.

DISCUSSION:

The Personnel Committee met Friday, April 4, 2008 to conduct interviews of candidates to fill the regular and alternate Public Member category and the alternate Public member category. The Personnel Committee is recommending to the full Board of Directors that Julio Magalhaes and Terry Trumbull be reappointed to the regular Public Member category and that Peter Chiu and Richard Grundgy be reappointed to the alternate Public member category.

Chairperson Hal Brown will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Report of the Executive Committee Meeting of April 10, 2008

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Executive Committee will meet on Thursday, April 10, 2008.

The Committee will receive the following presentations and reports:

- A) Quarterly Report of the Hearing Board and Advisory Council;
- B) Production System Project Update; and
- C) Labor Relations Closed Session Discussion.

Attached are the staff reports presented in the Executive Committee packet.

Chairperson Jerry Hill will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No budgetary impacts.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

**TO:** Chairperson Jerry Hill and Members  
of the Executive Committee

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

**DATE:** April 3, 2008

**RE:** Hearing Board Quarterly Report – JANUARY 2008 – MARCH 2008

**RECOMMENDED ACTION:**

This report is provided for information only.

**DISCUSSION:**

<u>COUNTY/CITY</u>	<u>PARTY/PROCEEDING</u>	<u>REGULATION(S)</u>	<u>STATUS</u>	<u>PERIOD OF VARIANCE</u>	<u>ESTIMATED EXCESS EMISSIONS</u>
Alameda/Hayward	Appeal of ROB SIMPSON for RUSSELL CITY ENERGY CENTER (Appeal – Docket No. 3546) – Appeal of ROB SIMPSON from the issuance of an Authority to Construct for the RUSSELL CITY ENERGY CENTER Application No. 15487 – Hearing on Request for Waiver of Fees	Appeal	Denied. Appellant did not provide appropriate documentation to support the request.	===	===
Alameda/Hayward	Appeal of ROB SIMPSON for RUSSELL CITY ENERGY CENTER (Appeal – Docket No. 3546) – Appeal of ROB SIMPSON from the issuance of an Authority to Construct for the RUSSELL CITY ENERGY CENTER Application No. 15487 – Hearing on Issue of Jurisdiction	Appeal	Dismissed. Hearing Board did not have jurisdiction over this Appeal.	===	===
Alameda/Livermore	APCO vs. MASOOD AMINI-FILABAD, aka AMINI FILABAD and HAMID AMINI individually and d/b/a LIVERMORE BEACON SITE NO. C8876 (Accusation – Docket No. 3548) – Accusation and Request for Order for Abatement from regulation requiring compliance to operate with Permit to Operate and with permit conditions and from regulation limiting emissions of organic compounds from gasoline dispensing facilities	2-1-302 8-7-301	Granted	===	(VOC)
Solano/Benicia	VALERO REFINING COMPANY-CALIFORNIA (Emergency Variance – Docket No. 3547) – Emergency Variance from regulation limiting emissions of organic compounds from storage tanks (APCO opposed.)	8-5-304 8-5-320 8-5-321 8-5-322 8-5-328	Denied	1/8/08 to 2/7/08	(H <sub>2</sub> S)

<u>COUNTY/CITY</u>	<u>PARTY/PROCEEDING</u>	<u>REGULATION(S)</u>	<u>STATUS</u>	<u>PERIOD OF VARIANCE</u>	<u>ESTIMATED EXCESS EMISSIONS</u>
Solano/Benicia	VALERO REFINING COMPANY-CALIFORNIA (Short-Term Variance – Docket No. 3547) – <i>Variance from regulation limiting emissions of organic compounds from storage tanks and from regulation requiring compliance with permit conditions</i>	2-1-307 2-6-307 8-5-304, 320, 321, 322 & 328	Applicant amended Application for Variance to Regular Variance (over 90 days). Matter continued to May 22, 2008	1/9/08 to 4/7/08 Amended to 1/9/08 to 4/30/08	(Toxic Organic Compounds)
Solano/Benicia	VALERO REFINING COMPANY-CALIFORNIA (Emergency Variance – Docket No. 3550) – <i>Emergency Variance from regulation requiring compliance with permit conditions (APCO not opposed.)</i>	2-1-307 (Condition \$ 22949, Part 3)	Granted	2/29/08 to 3/1/08	22.10 # (SO <sub>2</sub> )

**NOTE: During the first quarter of 2008, the Hearing Board dealt with five Dockets on five hearing days. A total of \$ 9,447 was collected as Hearing Board fees and \$36.69 was collected as excess emission fees during this quarter.**

### EXCESS EMISSION DETAILS

<u>COMPANY NAME</u>	<u>DOCKET NO.</u>	<u>TOTAL EMISSIONS</u>	<u>TYPES OF EMISSIONS</u>	<u>PER UNIT COST</u>	<u>TOTAL AMT COLLECTED</u>
VALERO REFINING CO.-CALIFORNIA	3550	22.10 lbs	SO <sub>2</sub>	\$ 1.66/lb	\$ 36.69
<b>TOTAL COLLECTED:</b>					<b><u>\$ 36.69</u></b>

Respectfully submitted,

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

Prepared by: Neel Advani  
Reviewed by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Jerry Hill and Members  
of the Executive Committee

From: Louise Bedsworth, PH. D.,  
Chairperson Advisory Council

Date: March 11, 2008

Re: Report of the Advisory Council: January 1, 2008 – March 12, 2008

RECOMMENDATIONS:

Receive and file the attached minutes.

DISCUSSION:

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

- A) Advisory Council Executive Committee Meeting of January 9, 2008: The Executive Committee set goals and priorities for the coming year to be discussed at the full Council meeting/retreat held immediately following the Committee meeting.
- B) Advisory Council Regular Meeting/Retreat of January 9, 2008: The Advisory Council received a report of the Executive Committee meeting of December 4, 2007. The Advisory Council reviewed topics identified for discussion at the retreat submitted by Council members and the Executive Officer/APCO, Jack Broadbent. The topics identified for discussion included: Climate Protection, CARE Program, PM Control, Spare the Air, Asthma and Indoor Air Quality and associated Public Health issues, taking a holistic approach towards education, public health. The Council conducted a breakout session in which each committee met separately to discuss and give priority to the study topics and establish meeting schedules for the year. The Council reconvened and each committee chair reported on its study topics and meeting schedules for the year.
- C) Air Quality Planning Committee Meeting of February 7, 2008: The Committee met and received a presentation report on the Impact of the Metropolitan Transportation Commission's Regional Transportation Plan and Regional Climate Protection Efforts. The presentation was given by MTC staff members Raymond Kan and Harold Brazil, Vice-Chair of the Advisory Council.

- D) Technical Committee Meeting of February 11, 2008: The Technical Committee received an update on PM Inventory Development, Modeling and Data Analysis from Air District staff Dr. Saffet Tanrikulu, Research and Modeling Manager and Dr. David Fairley, Statistician.
- E) Public Health Committee Meeting of February 13, 2008: The Public Health Committee continued discussions on draft strategy recommendations for Asthma and Indoor Air Quality. The Committee received an update on the Proposed Regulation 6, Rule 3: Woodburning Devices from Air District staff, Janet Glasgow, Air Quality Program Manager. The Committee also discussed possible topics/guest speakers for future meetings.
- F) Advisory Council Executive Committee Meeting of March 12, 2008: The Executive Committee received reports from each of its Standing Committees.
- G) Advisory Council Regular Meeting of March 12, 2008: The Council received a presentation and overview of the Air Districts Proposed Regulation 6; Rule 3: Wood Burning Devices from Kelly Wee, Director of Compliance and Enforcement. The Committee also received a report from Jack Broadbent, Executive Officer/APCO outlining Air District activities.

The minutes of the above referenced meetings are attached.

Respectfully submitted,

Louise Wells Bedsworth, PH.D.  
Advisory Council Chairperson

Prepared by: Mary Ann Goodley

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109  
(415) 749-5000

DRAFT MINUTES

Advisory Council Executive Committee  
9:00 a.m., Wednesday, March 12, 2008

- 1. Call to Order – Roll Call:** Chairperson Louise Bedsworth, Ph.D., called the meeting to order at 9:05 a.m.

**Present:** Louise Bedsworth, Ph.D., Chairperson, Jeffery Bramlett, Harold Brazil, Emily Drennen, Janice Kim, M.D.

**Absent:** Kraig Kurucz.

**Also Present:** Sam Altshuler.

- 2. Public Comment Period:** There was none.
- 3. Approval of Minutes of March 12, 2008:** Mr. Brazil moved approval of the minutes as amended, second by Ms. Drennen, the minutes carried unanimously.
- 4. Standing Committee Chair Reports:**

Air Quality Planning Committee Meeting of February 7, 2008 – Emily Drennen, Chairperson. Ms. Drennen stated that in February there was a fantastic presentation from two individuals from the Metropolitan Transportation Commission (MTC). The presenters were Ray Kon and Harold Brazil, as the both talked about the Regional Transportation Plan (RTP). The brief outline for the calendar was that division policy strategies were to be adopted in mid March. In July MTC is scheduled to adopt a constrained financial investment plan, with the hope of adopting RTP in February 2009.

Some of the goals were to reduce Vehicle Miles Traveled (VMT) 10% from today, and a drop in particulate matter (PM). There was a call for projects on March 5, 2008 so this is where the projects were gathered throughout the region. Ms. Drennen, further stated that Mr. Brazil spoke about Economy, Equity and Environment and its 3 goals of the RTP. The base case from ABAG is a 25% increase in population from 2006 to 2035; a 30% increase in VMT in the same period and a 50% increase in jobs in the same period and this is without doing any and this information was provided by ABAG.

Mr. Drennen further stated that there was an interesting analysis conducted in numbers of gallons of gas per day, per person regionally. At present, individuals use about one and one quarter gallons of gas per person and the target in 2035 is sixth tenths of a gallon. In addition, there were 3 investment scenarios that RTP is reviewing, essentially looking at 3 different ways of looking at it. 1) invest the money through highways and getting more efficiency from the highways; 2) to increase the number of HOT lanes and express buses, doubling their time bus speed; and 3) a regional rail/ferry solution. However, even the best 2 to be used are still 25% over the target for PM 2.5 and PM 10 was 120% over the target. This indicates that there is still some ways to go, even with those 3 different strategies. In the end, it looks as if there will need to be an integrated strategy or pieces of those 3 include increasing the efficiencies of the highways, new congestion pricing, HOT lanes, buses and regional rail. Pricing needs to be changed in the near term, change the land use in a much longer period of time and change the attitudes and behavior regionally, in regards to transportation in over a longer period of time, and technology will help.

Hopefully, the Committee will look at congestion fees in other cities and areas and how they work in terms of reducing air quality and also, and how they are funding transit. Also, the Committee hopes to provide some advice to the Air Quality Board regarding the policy implications of these congestion rules.

Ms. Drennen concluded her report to the Committee.

Chairperson Bedsworth informed the Committee that she spoke to Mr. Broadbent, Executive Officer/APCO with regard to having a presentation for the entire Council on RTP, so that everyone is familiar with the process. Dr. Kim asked about the overall reduction of PM and it being tied to the Air District. Mr. Brazil responded that the emission inventories were generated for the 3 basic pollutants and the analysis that was conducted. The 3 were CO<sub>2</sub>, PM 2.5 and PM 10. There were 3 investment transportation system investment scenarios. These were crossed tapped with 3 policy changes, which included land use changes, and pricing strategies that were separate from whatever pricing that was going on with HOT lanes. Overall, there were 18 scenarios that were tested, which included the baseline scenarios. Once the emission inventories were generated, they were all on-road mobile source emission inventories, which included transit vehicles, as rail and ferry was not included.

Mr. Brazil stated that with land use changes there were changes in the travel characteristics, such as changes in speeds, changes in congestion and decreases in VMT. The investment in HOT lane, express bus one can see a shift in motor travels you can see a reduction in VMT. This is where you will see a change in the emission levels for the different pollutants. Mr. Brazil stated that there were some targets that were set by the Governors Executive Order, therefore leaving the horizon year on the RTP as 2035 as this is the half way mark between 2020 and 2050 in the executive order. This is in attempt to get back to 1990 based on 2020 and then give get 80%

below in 2050, so 40% below just with the CO<sub>2</sub>, and continue to work with the Air District to establish 10% PM 2.5 and 40% on PM 10.

Jean Roggenkamp, Deputy Air Pollution Control Officer stated that the Air District is very pleased with the efforts that MTC is making and is quite challenging, but it also helps define the policy with transportation choices but with an air quality perspective, in addition to many other perspectives.

Chairperson Bedsworth commented that if none of them meets the target, which strategy will be the best of the three. Mr. Brazil responded to Chairperson Bedsworth and stated that the policy changes were a separate land use scenario change, the other was the pricing change and those were combined and found out that they were still short and added on the 2 additional categories, which included telecommuting to reduce VMT so those 2 were at the bottom. The policies combined with the freeway performance initiative, which includes ramp metering and message board systems, and the HOT lanes, those were the 2 that provided the best results from an emissions perspective. This was the closest to getting everyone getting to the target, but for CO<sub>2</sub> it is 80% over the target and it was even worse for PM.

Mr. Brazil further stated that the PM 2.5 target is easier to get to as that only requires a 10% reduction, but the PM 10 target is a 40% reduction from the 2006 base year level. As this made the scenarios 125% over the target with the best 2 scenarios, as the analysis is just a preliminary analysis, the projects are now being collected that are being submitted to see if these will be included in the RTP.

Ms. Drennen has stated that the RTP is looking at drastically increasing the cost of driving. This would include increasing the cost of driving five times and Mr. Brazil stated that he believes that is double. Ms. Drennen also stated that this is why

Jean Roggenkamp, Deputy Air Pollution Control Officer clarified that the position of the Public Health Officer would need to be considered during budget discussions.

Chairperson Bedsworth moved forward with the list of topics. The topics included information received from council members and from Jack P. Broadbent, Executive Officer/Air Pollution Control Officer.

Going forward Chairperson Bedsworth suggested committee members consider which topics each Committee would consider and the order of consideration. There may be overlap with other Committees. For instance, climate change issues conflict with criteria pollutant goals, which might want to be considered by several committees. Chairperson Bedsworth noted one example that Mr. Broadbent brought up. Specifically, if the CO limit for Stationary Sources was raised, they could operate more efficiently and reduce greenhouse gas emissions. It was suggested that this may

be a good topic for the Technical Committee to discuss. The Planning Committee should think about transportation and land use planning, smart growth issues and how they can be tied together.

It was noted that having presentations given to the Advisory Council as a whole on topics of interest to multiple committees will help to eliminate multiple committee presentations. This possibility can also be thought about in the Committee discussion, but certainly in the follow up discussion. Chairperson Bedsworth requested each Committee Chair develop a regular schedule of meeting dates.

Mr. Blonski commented that from a planning perspective the Committees should identify outcomes that are desirable so that it is not just discussion on a particular topic, but it is working toward a product that can be brought forward to the full Council.

Chairperson Bedsworth agreed and noted that there will be topics that will just be for discussion, but there will also be topics where recommendations will be made and identifying those topics early on and providing a timeline for when the recommendation will be brought forward to the Council will insure that meetings occur on schedule and that the recommendation is made in a timely manner to the Air District. For example, if the Council was to consider the potential gas fee and what the Air District might do with that type of money, then the Council would try and have recommendations from the Council brought forward in the summer, etc.

Mr. Altshuler suggested that more attachments be included with the minutes, as it will make the minutes more complete.

Mr. Glueck has suggested that if there are presenters, to try to get them to provide their documentation as reference to verify the facts or statements made.

Chairperson Bedsworth suggested that guidelines be provided to speakers that may include providing their presentation, as well as providing the Committee with the highlights.

Dr. Kim asked that the presentation also be attached, when there are minutes for approval. Mary Ann Goodley, Executive Office Manager agreed that going forward this would happen.

Dr. Kim indicated that she was not aware of a template being circulated with regard to the goals and objectives and Chairperson Bedsworth commented that it was only a discussion. It was noted that the Executive Committee would work to formalize a memo of some sort to provide to speakers.

- 5. Committee Member Comment/Other Business:** Mr. Blonski asked how the information should be recorded during the breakout session with the respective



Committees. Mr. Kurucz responded by informing Mr. Blonski that the information would be reported after the breakout session.

**6. Time and Place of Next Meeting:** 9:00 a.m., May 14, 2008, Conference Room 716, 939 Ellis Street, San Francisco, CA 94109.

**7. Adjournment:** The meeting adjourned at 9:50 a.m.

Vanessa Johnson  
Acting Clerk of the Board

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
(415) 749-5000

DRAFT MINUTES

Advisory Council Regular Meeting  
9:30 a.m., Wednesday, January 9, 2008

**Call To Order**

Opening Comment: Chairperson Bedsworth called the meeting to order at 9:50 a.m.

Roll Call: Louise Bedsworth, Ph.D., Chairperson, Cassandra Adams, (9:58 a.m.), Sam Altshuler, Harold Brazil, Ken Blonski, Robert Bornstein, Ph.D. (9:51), Jeffrey Bramlett, Irvin Dawid, Fred Glueck, William Hanna, John Holtzclaw, Ph.D., Janice Kim, M.D., Kraig Kurucz, Karen Licavoli-Farnkopf, M.P.H, Kendal Oku, Linda Weiner, and Brian Zamora.

Absent: Emily Drennen, MPA, Robert T.P. Huang, Ph.D., and Steven T. Kmucha, M.D.

*Dr. Bedsworth asked members present to introduce themselves to the Council's newest member, Mr. Oku.*

**Commendation/Proclamation** – *The Advisory Council presented a plaque to outgoing Advisory Council Chairperson, Fred Glueck for his outstanding service on the Council this past year. The Council also congratulated incoming Chairperson, Dr. Bedsworth on the recent birth of her baby boy, Wiley.*

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

Ms. Adams arrived at 9:58 a.m.

**Consent Calendar (1 Item)**

1. Approval of Minutes of November 14, 2007: Mr. Bramlett moved approval of minutes, Mr. Altshuler seconded the motion to approve with minor edits; the motion carried unanimously.

**Committee Reports and Recommendations**

2. Report of the Executive Committee Meeting of December 4, 2007

Mr. Glueck provided a report on the discussion of format, agenda and list of topics for the retreat. Mr. Glueck received suggestions on where the committee should be directing their attention and efforts. Priorities received from the Advisory Council and Jack Broadbent were identified as follows:

- a) Greenhouse Gases,
- b) CARE Program, and associated Public Health issues
- c) Taking a holistic approach towards Education, Public Health with regard to regulations, policies, and procedures, and
- d) Consideration of hiring a full-time Public Health Officer.

This set of recommendations was made to the Executive Committee of the Board of Directors on December 17, 2007.

3. Report of the Public Health Committee Meeting of December 12, 2007

Mr. Bramlett reported briefly that there had been discussion on grouping issues and how to prioritize, and a discussion of indoor air quality/asthma strategy.

**Retreat Format**

4. Discussion with Air District Management on Key Issues Facing the District and Proposed Assignments to the Council:

*Ms. Jean Roggenkamp, Deputy Air Pollution Control Officer, spoke on behalf of Jack Broadbent, Executive Officer.*

Ms. Roggenkamp stated she had nothing to add to the work of the Advisory Council on the topics for the next year; management is comfortable with the areas the Advisory Council has chosen.

*Dr. Bedsworth* elaborated on the issue of identifying topics.

Dr Bedsworth noted two lists of topics, one from the end of last year solicited from Advisory Council Members, and another list identified by Jack Broadbent, resulting from the December 4<sup>th</sup> Executive Committee Meeting, both of which mapped one another closely, and yielded the following topics:

- Climate Protection
- CARE
- PM Control
- Wood Smoke
- Spare the Air
- Asthma
- Indoor Air Quality
- Other (broader) items

The two items emphasized by the Council were Climate Protection and CARE. Dr. Bedsworth questioned how to resolve conflicts between greenhouse gas emission reductions and criteria pollution reductions; e.g., carbon monoxide limit on stationary sources - if that was made less stringent, it would allow these sources to operate more efficiently and reduce greenhouse gas emissions. How does the District evaluate those types of trade-off issues?

Regarding the CARE Program, how does the District respond proactively, and not reactively, in the communities that are identified (by Air Resources Board and the CARE Program) as being burdened? (Example: Risk Assessment for West Oakland by the Air Resources Board.)

Regarding Spare the Air Program, Jack Broadbent spoke once regarding the need to shift from an episodic program to a long-term, individual behavioral concept. A need for constructive comments was emphasized at that time.

*Dr. Bedsworth distributed a table with topics from Jack Broadbent and from Council members, and a potential committee to handle each topic.*

Analysis of Conflicts topic could be a priority for the Technical Committee. Transportation issues could be a priority for the Planning Committee. Also, Land Use and Smart Growth, and Gas Fee and what the District could do with monies generated from it. Public Health Committee: how does the District start to deal with information coming out of the CARE Program and related programs?

Dr. Bedsworth asked that, during the individual committee sessions and coming back together as a group, Council members concentrate on how to make the Council as efficient and effective as possible; with the lists in mind, to prioritize topics by committee, and identify products coming out of that process, i.e. recommendations for actions, protocols for recommendations, timelines for specific recommendations, or items to explore to determine if a recommendation is called for or not. Identify items of overlap among committees and discuss value of revisiting specific topics in next full Council meeting. Also get a list of committee meeting dates and times.

*Discussion ensued with question and answer session.*

Breakout Session began at 10:32 a.m.; meeting to be reconvened at 11:45 am.

5. Convene to Working Lunch for Meetings and Discussion Sessions of the Public Health Committee, Air Quality Planning Committee and Technical Committee

*The Council participated in a working lunch/Standing Committee format in which each Committee separately met to discuss and give priority to the study topics discussed by the Executive Committee, District staff and the Council members. The Committees also established a meeting schedule for the year.*

6. Reconvene to Full Council Format for Follow-up on Committee Discussion Sessions

Meeting reconvened at 12:12 p.m. to Full Council Format for Follow-up on Committee Discussion Sessions

*The Advisory Council reconvened to receive the reports of the Standing Committees on their study topic priorities and meeting schedule, and to conduct any further round table discussion concerning them. Mr. Brazil, Vice-Chairperson reopened the meeting.*

### **Air Quality Planning Committee – Dr. Holtzclaw presented**

Fred Glueck presented a challenge on how Committee members conceptualize and contextualize what they do, activities associated with global warming and gas emissions, and how to help educate and convince the public of which global warming and emissions reduction programs need to be implemented.

Three areas that will comprise the Planning Committee's agenda:

- a) Regional Gas Fee – implementation strategies, monies use, illuminate the cost/benefit connection; recommendations by late summer.
- b) Transportation Modes – increasing transit use, reducing single-occupancy VMT, increasing non-vehicular modes, and looking at regional transit funding – overlap with previous item, public education related to global warming, transportation efficiency, coordination with MTC's planning process; recommendations by late fall.
- c) Smart Growth – relating it to transportation modes, walking and bicycling, transit use, VMT reductions.

Dr. Holtzclaw stated one of the most important things is the need to conceptualize how to impact the public discussion to move in the direction of reducing global warming gas emissions.

Ms. Weiner asked, with regard to congestion pricing, if an exception for populations that need a car had been considered. Dr. Holtzclaw and Mr. Dawid responded that in terms of specifics of application of congestion pricing, they had not considered that.

Mr. Glueck gave an overview of the committee's objectives: to look at the proposals' effectiveness. Is there synergy between the plans, and overall timeframes? To identify whether synergies exist between the way plans are being proposed and developed. To get the public buy-in, and to get their approval and participation in these plans.

Mr. Blonski acting as Committee Chairperson, in Emily Drennen's absence, emphasized the importance of having specific outcomes in the form of recommendations to the Advisory Council this coming year. **Meetings to be held the first Thursday of every other month, at 9:00 am**, changed from Wednesday. Dr. Bedsworth asked if areas for future full Council discussion, or overlap were identified, about speakers, etc. Mr. Blonski suggested a follow-up with answers to those questions and mentioned an MTC representative for a speaker.

### **Technical Committee – Mr. Kurucz presented**

- Will produce Implications of Climate Change, synergies and conflicts of Climate Change and Criteria Pollutants
- Implications of Fuel Choice
- Multi-pollutant, Multiple-Scale Models (Integrated Multi-Pollutant Management)

**Meetings 1st Mondays at 9:30, or second Mondays as an alternate, every other month.**

Speaker list:

- Mike Lehman from UC Davis – Implications of Climate Change on Particulate Matter
- EPA – Single Multi-Pollutant Models, Multiple-Scale
- Livermore – Regional Climate Change Impacts
- Rob Harley – Effects of Climate Change on Ozone Strategy

Mr. Kurucz summarized: outcomes – to report the synthesis of speakers, i.e., implications of climate change on Bay Area Air Quality Program, rather than specific recommendations.

**Public Health Committee** – Dr. Kim presented

- Finalize Indoor Air Quality and Asthma recommendation; input from staff in March, and by May present to the full Advisory Council for approval
- PM Control and Wood Smoke
- Work with Air District on the CARE Program, with input from other stakeholders
  - Bay Area Environmental Health Coalition
  - Local Health Officers – West Oakland
  - Court – West Oakland

Use the Risk Assessment as a case study model for future local community impact endeavors, and find out from District what local communities are doing about the initiatives and policies it presents.

The Committee **will meet on the second Wednesday of the even months** that the Advisory Council is not meeting at **1:30 pm, except for June 4<sup>th</sup>**.

Dr. Bedsworth asked if there are topics of overlap to bring to the full Council. Dr. Bornstein mentioned the EPA on current modeling, S. T. Rau will speak in San Francisco in May, and perhaps he would be able to address the directions in research in air quality at the EPA.

The Planning Committee did not touch on Goods Movement, but may have overlap with Public Health Committee's West Oakland issues and Green Ports initiative. Ms. Roggenkamp commented that the invitation to Dr. Iton might interest the full Advisory Council.

Ms. Kim and Ms. Roggenkamp felt that waiting for reports from the Air Resources Board or CARE before hearing Dr. Iton's and others' presentations would not be necessary.

Dr. Bedsworth noted that there would not be much overlap.

Questions – Mr. Dawid asked about the Wood Smoke Ordinance. Dr. Kim responded that the committee wanted to hear what public comments there were. It is a priority for the next meeting. Dr. Kim asked about the second round of workshops, would the District provide proposed revision. Ms. Roggenkamp replied it would announce any potential changes to the draft regulation, reporting out to the full council in March.

Kelly Wee, Director of Compliance and Enforcement, responded regarding the Wood Smoke Rule development, PM 2.5 should be treated as a regional pollutant.

Gary Kendall spoke about the 5 forecast zones for Particulate Matter for the Bay Area. These are the same zones used for ozone forecasts.

## **OTHER BUSINESS**

**10. Committee Member Comments/Other Business:** Dr. Bedsworth reminded the Council of the Ethics Training requirement.

Mr. Dawid asked about three million dollars in Climate Protection grants. This is for Climate Protection as opposed to Air Quality: is this competing with Air Quality or is it a new fund? District Counsel Brian Bunger responded that it is not ongoing funds, and is not competing with anything. Mr. Dawid remarked that Marc Jacobson produced a landmark study showing how CO<sub>2</sub> is a public health issue.

**11. Time and Place of Next Meeting:** 10:00 a.m., Wednesday, March 12, 2008, 939 Ellis Street, San Francisco, CA 94109.

**12. Adjournment:** The meeting adjourned at 1:00 p.m.

Jean Marie Mink  
Temporary Executive Secretary

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

DRAFT MINUTES

Air Quality Planning Committee  
9:30 a.m., Thursday, February 7, 2008

1. **Call to Order:** Chairperson Drennen called the meeting to order at 9:35 a.m.

**Roll Call:** Emily Drennen, Chairperson, Ken Blonski, Harold Brazil, Irvin Dawid, and John Holtzclaw, Ph.D.

**Absent:** William Hanna, Robert Huang, Ph.D., Kraig Kurucz, and Kendal Oku.

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

3. **Approval of Minutes of October 10, 2007:** Mr. Blonski commented that the minutes were exceptionally well done. Dr. Holtzclaw moved to approve the minutes, Mr. Dawid seconded. Chair Drennen called for approval and the draft minutes were approved unanimously.

4. **Impact of MTC's Regional Transportation Plan (RTP) on State and Regional Climate Protection Efforts:** the *Committee received presentations by Raymond Kan, MTC Planner and Harold Brazil, MTC Air Quality Planner Analyst on MTC's RTP.*

Mr. Kan provided an overview of the RTP, the 25-year transportation planning document for the Bay Area. It is anticipated this plan will be adopted by the MTC and the Board of Directors' Joint Policy Committee in February 2009.

Mr. Kan presented slides, reflecting the plan's core elements and noted the plan's performance objectives, including:

- CO<sub>2</sub> reduction
- Particulate matter reduction
- Congestion reduction delay
- VMT reduction
- Affordability

The Scenario Analysis exercise concluded that closing the gap will require a combination of:

- Infrastructure
- Pricing
- Land use
- Technology
- Individual behavioral change

The vision-scenario exercise was presented to the public in October, at the fall summit.



Performance objectives were expanded from the targets in the 2005 plan “Transportation 2030” to include Maintenance and Safety. Measures addressing road pavement conditions, highway conditions, transit asset conditions, as well as several measures on collisions and fatalities, involving vehicles, pedestrians and bicycles, were added.

Mr. Kan informed the Committee that no recommendation of a performance objective for Security had been made. It was noted that the target to reduce the percentage of household income spent on transportation and land use by 10% from today’s levels, was mistakenly omitted from the presentation. A new target was added: the number of low-income households within walking distances of enhanced and expanded transit service; walking distance was estimated to be between one quarter and one half mile.

Mr. Kan stated the final set of performance objectives are for Clean Air and Climate Protection goals: a 10% reduction in vehicle miles traveled (VMT) from today’s levels and a reduction of particulate matter (PM). Mr. Hilken elaborated on the background for the PM<sub>10</sub> and the PM<sub>2.5</sub> standards that were suggested to the MTC and discussion regarding reduction standards ensued.

Mr. Kan stated the intention of using the performance objectives to validate projects going to the RTP and to measure future progress toward the MTC’s goals and objectives. With regard to a qualitative track, draft vision policy strategies were to be given to the Commission’s Planning Committee meeting the following morning for initial review.

Discussion ensued regarding stabilized population versus growth and interregional trips, as well as consideration of those and other factors in making projections. Mr. Brazil provided a brief description of travel demand models. Dr. Holtzclaw expanded with a further description of the modeling process with regard to economics, jobs, households, and regional accommodation based on factors from outside of the region.

Mr. Kan stated the timeline for the Vision Policy Strategies (VPS) as follows: after review February 8 by the MTC’s Planning Committee, the VPS would then go on to the Board of Directors’ Joint Policy Committee for review the following week. The VPS will then go to the Partnership Board later in February and it is anticipated that the VPS policies will be adopted by the Commission in mid-March. The MTC is looking forward to having a final draft of a financially constrained investment plan by July; per federal regulations the RTP must be financially constrained.

Mr. Kan and Mr. Brazil answered committee members’ questions regarding transportation projects, plan updates and the concept of security coming from the federal definition, in terms of terrorist attacks, rather than accidents.

*Mr. Brazil’s presentation “Long Range Transportation Planning Scenarios to Achieve Greenhouse Gas Emission Targets” began.*

Mr. Brazil provided an overview to his slide presentation along with a legislative background. Major climate change initiatives and recent court cases were noted,

- Assembly Bill 1493 (Pavley, 2002)

- 2005 Governor Schwarzenegger's Executive Order S-3-05
- Global Warming Solutions Act of 2006 (AB32)
- Mass. v. USEPA, US Supreme Court, Apr. 2007
- Chrysler-Jeep v. CARB, US District Court (Fresno), Dec. 2007
- USEPA Denial of California's waiver, Dec. 2007
- California v. USEPA, US Court of Appeals, Jan. 2008 (9<sup>th</sup> District, San Francisco)

Predictions and projections from ABAG for the years 2006-2035 were enumerated:

- 25% increase in population in the region.
- 30% increase in VMT
- 50% growth in jobs.

A discussion of the effects of growth in the Central Valley ensued, and the suggestion to begin providing data on the growth of areas surrounding the region was made.

Mr. Brazil reviewed the three principles introduced in Mr. Kan's presentation: Economy, Environment, and Equity. Principles by which the strategies, as well as the environmental performance targets, were established, Mr. Brazil gave an explanation of how the targets were determined. There was a brief discussion about the difficulty of reaching the targets and about the emission sources, mobile and stationary.

Mr. Hilken clarified, when these targets were suggested to MTC, it was assumed that equivalent reductions from all source categories would be needed, not more or less from transportation, stationary sources or area sources. The targets discussed represented what is needed from transportation; similar reductions from wood smoke, from industry, and across the board would also be needed.

Mr. Brazil added that, although on-road goods movement represents a small percentage of the VMT, they contribute a much larger percent to the inventory than transportation. Mr. Dawid noted that the ARB is on the verge of passing two truck rules, one for drayage and one for port. It is anticipated their passage will have a great effect on this number.

Mr. Brazil continued, giving numbers on emission trends and targets. In 2006 it was estimated that, per capita, people would use approximately one and a quarter gallons of gasoline per day in 2006 in the baseline situation. To get to the 2035 target, use would need to decrease to six-tenths of a gallon per person per day. In the baseline 2035 situation, the same amount of gasoline would be used, a little less, than 2006, i.e. approximately 1.1, 1.2 gallons of gas per person, in 2035 in the baseline condition. The baseline is almost twice as much as what the target is for CO<sub>2</sub>. The regional travel demand model was used to put together these figures. Ms. Drennen asked whether the estimation was based on fuel efficiency. Mr. Brazil replied that it is based on the target, and pointed out that the target is set without taking into account what strategy is used to get there.

In response to Dr. Holtzclaw's question regarding the target in gallons per day, Mr. Brazil state, 0.68 gallons per day, per person in the region.

Ms. Drennen asked if 0.68 gallons per day could be achieved, doing nothing else but fuel efficiency. Mr. Brazil explained that, in addition to the travel demand model, EMFAC

[California Air Resources Board's latest model for determining motor vehicle emission, EMFAC2007] was also used. EMFAC doesn't currently take into account the Pavley standards for CO<sub>2</sub>, so ARB has a separate off-model spreadsheet that is used to draw from EMFAC, and calculate proposed reductions from Pavley being in place in 2030, 2035. In this case it was 2035, so that calculation had to be made separately.

Mr. Brazil explained further that owing to Pavley not being law yet, in addition to time constraints, the MTC was unable to provide what are likely to become accurate figures.

Mr. Brazil described policy changes: the Land Use Sensitivity Analysis comprised the land use changes, redistribution of employment growth, and residential use, with an attempt to locate it near transit hubs. Pricing Sensitivity Analysis comprises the carbon tax, congestion fee of twenty five cents per mile, and increased parking charges, which effectively double the cost of driving to discourage vehicle use.

Mr. Brazil outlined the following investment scenarios:

- The Freeway Performance Initiative (FPI), a combination of
  - ramp metering on the entire freeway system in the region
  - more signal coordination on the arterial streets
  - improved incident management
- The HOT lane and express bus scenario that increases to 760 total lanes of HOT lanes in the region - an 82% increase in bus-service hours for the local and express buses.
- The Regional Rail adds
  - six water-transit routes
  - an expansion of the existing rail network
  - high-speed rail

Telecommuting was also included later on, and that represented a ten percent reduction in the number of work trips, based on what had been happening in Marin County. Because of time constraints, telecommuting was not run on the base-case scenario, nor was it run on the ferry/regional rail scenario; only HOT lanes were added.

Mr. Brazil then explained the modeling exercise, the process used to run the scenarios on machines at MTC and the time constraining factors determining the type of investment scenarios explored.

Continuing, Mr. Brazil presented the table "Vehicle Miles Traveled (VMT) by Alternative", which measured in thousands of miles per day the potential outcomes of Investment Scenarios combined with Policy Changes. As an example, the Freeway Performance alternative for the baseline investment box or cell, showed an actual increase in VMT. This was due to freeway enhancement and congestion reduction attracting more travel, and putting more cars on the road – in the baseline condition. The next slide showed VMT per capita. There is an increase in VMT in that FPI baseline box due to a large increase in speed. With FPI, as travel speeds increase, travel time decreases, therefore there is more VMT.

Ms. Drennen asked about modeling with transit speeds. Mr. Brazil replied that speed is taken into account using the travel demand process and the mode-split step.

Mr. Kan commented that the really new element in all three scenarios is the express and local bus component. This component was developed with the region's present operators last year. The size of the region's bus fleet was essentially doubled, and by assuming transit priority measures the running speeds on a lot of routes also improved.

Dr. Holtzclaw asked whether an analysis including both the regional rail improvements and the express and local bus had been made, as a decrease in the amount of VMT will end up increasing the bus speeds. Mr. Kan responded, he would have loved to develop a hybrid scenario, but could not, given time constraints. Mr. Blonski asked whether an optimization model exists. Mr. Brazil responded they have to feed the model the alternative itself. It does not take different combinations and recommend you do it in a particular way.

Introducing the CO<sub>2</sub> Emission Results table Mr. Brazil noted that the two alternatives circled at the bottom do the best, but added that those two alternatives are still over fifty percent over the 40% CO<sub>2</sub> target. The target table is in straight numbers, there is no multiplier applied to the targets table. For the CO<sub>2</sub> emissions table, the multiplier is one thousand.

Dr. Holtzclaw observed that the results are just in terms of VMT. There are also café standards or decreasing the emissions per car by making each vehicle more efficient. And there are also fuel changes: changing to less emitting fuels, like plug-in hybrids, et al.

Mr. Brazil stated that it does take into account Pavley. But the other technology changes with cars like plug-in hybrids, and low carbon fuels, that type of thing – that's not included. But Pavley is. It's actually the *old* Pavley now, because ARB has a new Pavley, Phase II, which was not available at the time the analysis was made. The numbers presented reflect *old* Pavley.

In response to Dr. Holtzclaw's question about "old Pavley", Mr. Brazil explained that it is, basically, an eighteen percent reduction in CO<sub>2</sub> or greenhouse gas emissions in 2020, and a possible twenty-seven percent reduction in 2030. The Pavley Phase II is a small increase from that, but was not included in the estimates. It did not become available until the beginning of the year.

Ms. Drennen asked whether the results of the columns were additive. Mr. Brazil replied that the results are not additive, unfortunately.

Mr. Brazil continued, with the PM<sub>2.5</sub> Emission Results table, and noted that the best two alternatives are still over 25% over our target. Then for the PM<sub>10</sub> target, the results are still over 120% over targets, in the *best* two alternatives. The PM<sub>10</sub> targets are very aggressive. To demonstrate what it would take to reach targets, Mr. Brazil presented a table with various combinations of alternatives: gas-powered, electric, plug-in hybrid, and hydrogen fuel cell and the percent fuel economy improvement that would be needed under each scenario.

Mr. Blonski asked whether it is possible to translate the increase in fuel efficiency needed to achieve this improvement into a miles-per-gallon figure for (Pavley-consistent) gasoline-powered vehicles. Mr. Brazil replied that the fuel economy number was something over 50 miles per gallon for all of the vehicles.

Mr. Brazil explained that the spreadsheet tool from ARB just applies those Pavley reductions for those model years and estimates those reductions for whatever analysis you want to look at. The full effect of Pavley will only be felt near 2035, as more cars will be running under the Pavley standards then.

Dr. Holtzclaw asked questions regarding the Alternative Fuel Scenarios for Attaining CO<sub>2</sub> Target table. Mr. Brazil affirmed that putting the information together concisely was not easy. Other interfaces were attempted; however they did not succeed in taking into account the strategies drawn from the vision scenarios. Because all of scenarios are short of the CO<sub>2</sub> target, all of the attainment measures in the table represent the HOT lane/express bus/telecommuting scenario.

In reference to the Alternative Fuel Scenarios table, Mr. Brazil observed that plug-in hybrids appeared to be the best way to approach the needed reductions. Ms. Drennen asked if electric cars would not be better than a plug-in hybrid. Mr. Brazil responded that, of the two, the technology that can get on the road sooner and touch more households is the plug-in hybrid.

Concluding the presentation, Mr. Brazil noted that there is no single “silver bullet” solution, and that an integrated strategy including the following will be needed:

- Pricing in the near term
- Land use changes in the longer term
- Changes in attitude and behavior for transportation
- Technology help

Regarding future work, Mr. Brazil showed a map of the region and its range of CO<sub>2</sub> emissions, along with a summary of items to be worked on and completed going forward. Included were

- Meeting with ARB for additional guidance on using the spreadsheet tool to estimate the impacts from Pavley.
- Individual project analyses
- All-emissions calculations done for individual projects
- Environmental impact report (EIR) for CEQA
- History of the CO<sub>2</sub> footprint map
- Provision of baseline VMT data for local communities to develop greenhouse gas inventories
- Using the travel demand model to project VMT into the future

Ms. Drennen inquired whether the most efficient method of spending regional dollars would be additional investment in the dark green area (lowest emissions per household) or additional investment in the red areas (highest emissions per household). Ms. Drennen ventured that, from a San Francisco perspective, one might get more CO<sub>2</sub> reductions if more money was spent in places that already have the infrastructure to do that, and asked if there is an overall answer to that question. Mr. Kan responded, no geographic cost/benefit analysis had been made, however he felt that the planned project evaluation work might shed some light.

Mrs. Drennen asked Mr. Blonski to lead off with questions for the presenters.

Mr. Blonski asked whether the CO<sub>2</sub> footprint map information solely reflects households. Mr. Brazil responded that it *is* only households, and expanded on the subject of home-based VMT, where one CO<sub>2</sub> emission factor was applied to this VMT number for each zone. Non-home based VMT is not reflected in the map.

Mr. Blonski asked what a stereotypical household in the dark green would look like, versus the dark red, to account for such a difference. Mr. Brazil responded with the example of Antioch in the red area in the east; more affordable housing for families, families who tend to work in the inner urban areas like in Oakland and San Francisco. These are persons commuting every day. Mr. Brazil further noted that the red is always on the outside of the inner urban area, where there is a lot of suburban-type development, and those people are driving in, everyday. Whereas, in the green areas, Mr. Brazil used himself as an example; living in El Cerrito, directly across from San Francisco, and riding BART everyday. Mr. Blonski observed that it reflected lifestyle to some degree. Mr. Brazil pointed out that another driver for that amount of VMT is household income, and autos available, remarking that if people have more income, they have cars – they drive. Ms. Drennen added that in green areas people would also take a lot more non-commute trips by transit, whereas, in Antioch, one might need to drive to the Wal-Mart and back, to school and back, etc. as opposed to walking or taking transit.

Mr. Hilken emphasized that map represents only one part of our CO<sub>2</sub> footprint. Dr. Holtzclaw commented that he liked the map, noting that it shows, for instance, the influence of BART, the influence of Caltrain, as well as the influence of good buses. I think it's really a map that gets you and makes the point.

Mr. Brazil reminded the Committee of the availability of the map and the presentations, and pointed out the website URL:

[http://www.mtc.ca.gov/plannin/2035\\_plan/tech\\_report.htm](http://www.mtc.ca.gov/plannin/2035_plan/tech_report.htm)

located on the last slide, which has links to the first line technical data summary, and all of the excel tables included in the presentation.

Mr. Kan presented the final slide of his presentation, regarding the call for projects. Partners, congestion management agencies, transit operators, and members of the public, were asked to coordinate the project submittals by March 5<sup>th</sup>. One of the ideas would be possibly working with the Air District i.e., Henry Hilken and his staff to develop a Regional Climate Protection Program or Campaign. Potentially this climate protection program or campaign could comprise a Spare-the Air/Free Transit transition program; it might include some form of retrofitting, drayage trucks and replacing them at the ports; and it might also include a public education campaign. These ideas will be refined over the next month with the Air District.

In response to a question from Ms. Drennen about the transition program, Mr. Kan replied that the program would conceivably be a transition of the Spare the Air/Free Transit program, moving the focus on ozone precursors towards a more climate change/CO<sub>2</sub>-oriented program. Mr. Hilken added that the District and MTC have talked for many years about the Spare the Air program, and had this year begun transitioning to “clean air choices 365 days a

year.” Mr. Hilken stated there will always be Spare the Air days on the hottest smoggiest summer days, when people will be asked to drive less, and not use lighter fluid, etc. There is good name-recognition for the Spare the Air program, it could be transitioned to lifestyle decisions, and having people think about their personal behavior and how they can improve air quality and reduce greenhouse gas emissions 365 days a year. Mr. Kan concluded by reiterating the call for projects deadline, and stated he and Mr. Brazil would take questions.

Mr. Blonski thanked both Mr. Brazil and Mr. Kan for the interesting presentations. Ms. Drennen concurred, especially thanking Mr. Brazil for double duty as a Council member and as a presenter. In response to a question from Ms. Drennen about transit cost reduction/free transit as part of pricing sensitivity, Mr. Kan replied that although at one point having free transit as part of the vision scenario was considered, it was decided against in favor of increasing the cost of driving five times. Through the Spare the Air a free transit program on a per day basis could be extrapolated to 365 days in a year to determine costs. Ms. Drennen observed that administrative overhead costs would be reduced, as there would be no costs for the collection of transit fares; Mr. Kan concurred.

Ms. Drennen replied that she would be interested in seeing a number from MTC for the cost of free transit. Mr. Kan replied that he would try to forward a number to Ms. Drennen. In response to a question from Mr. Blonski, Mr. Kan was unable to recall why MTC decided against free transit as a scenario, but added that increased driving costs had been focused upon. Mr. Blonski offered a carrot and stick analogy, to which Mr. Kan responded that, in a sense, with the HOT bus and regional Rail & Ferry scenarios, the infrastructure is the carrot, and the pricing on the roadside, the stick.

Dr. Holtzclaw opined that the importance of the map from Mr. Brazil’s presentation is that it shows the difference in density, transit infrastructure, and road infrastructure, on influencing lifestyle changes. Rather than people in Berkeley or San Francisco being more concerned about CO<sub>2</sub> or emissions [than people living in outlying yellow and red zones], the infrastructure in those areas simply makes it easier for them; gives those people more alternatives and actually makes it harder to drive. Dr. Holtzclaw felt that because in those [green] areas driving is more expensive, parking scarce, and congestion maybe worse; lifestyle changes in some respects are encouraged or *required*.

In response to a question from Mr. Dawid, Mr. Kan stated that the RTP is going to be adopted in February 2009. Discussion ensued regarding the model, and Mr. Brazil indicated a new tool would be needed to enter the new Pavley standards, along with guidance from ARB regarding fuel economy assumptions employed in travel demand modeling.

Mr. Hilken emphasized that, with the very aggressive targets for PM and CO<sub>2</sub>, the best investment, of the three different alternatives – rail/ferry, HOT lanes, and freeway performance – the best one only moves so far toward the target. Mr. Hilken agreed the pricing scenarios are speculative, hypothetical; however, because the targets are so aggressive, the MTC is making a case to build public support, or at least putting the information out there for the public to think about what more might need to be done with pricing and land use, if these targets are going to be achieved.

Ms. Drennen commented, I wanted to take our next step, something new this year, which is “what does this matter to us?” or what impact can this committee have with the information

we just got? Mr. Brazil recalled a transportation land use and climate change discussion at the retreat, and suggested perhaps Mr. Dawid could recommend applications for this information. Ms. Drennen proposed as a topic for the Committee's next meeting, transit funding - both currently and in the RTP - and how the Air District supports it, citing MUNI's ability to present their recent blue ribbon panel findings on innovative transit funding opportunities. Dr. Holtzclaw suggested the Committee look at the Keogh [?] Plan for New York City, an analysis of funding free transit with increased congestion fees.

Mr. Dawid distributed a draft resolution; all individuals present received a copy. Mr. Dawid commented that he felt that Ms. Drennen's proposed step of asking, "What do we do with this?" was crucial, and further opined that the purpose of the Advisory Council is to provide some professional advice to the Board, using the Council members' backgrounds and presentations, the best example of which would be, most recently, the Wood Smoke resolution, which came from the Public Health Committee. Mr. Dawid suggested that what the Health Committee did to Wood Smoke, the Air Quality Planning Committee had the opportunity to do with the generic subject of this pricing new user fees that would go toward public transit.

Ms. Drennen requested from Mr. Kan and Mr. Brazil that the HOT Lane proposal in the RTP be given to all of the committee members, and declared a positive need for the Committee to know what is in the RTP for the HOT Lane issue.

Mr. Blonski recommended that the Committee synthesize out the "carrot and stick" approach, rather than take one particular stance, suggesting the best way to achieve this would be to examine that approach within the context of different programs studied by the Committee, and then bring some of the strategies to the Advisory Council in a synthesized manner, and to then encourage the District to embark on these strategies.

Mr. Hilken replied that in the Ozone Strategy, there are approximately twenty transportation control measures, each one of those having many sub-components, and there is one on pricing; there are a number of different pricing policy ideas. Congestion pricing is one of them. Congestion pricing has long been supported, in addition to other pricing strategies. It is difficult politically, but certainly something that the agency has worked with the MTC on and it is part of the long-range strategy to attain air quality standards. Another thing to be considered is the equity impacts of these pricing strategies. Mr. Hilken stated that analysis shows that that pricing will be an important part of reducing VMT and achieving air quality standards and greenhouse gas reductions; but asked, how do those pricing strategies affect low-income households?

Ms. Drennen asked Mr. Brazil if he had any thoughts, as a councilmember?

Mr. Brazil offered, as an example, the Committee could come up with a specific idea of how to use pricing scenario funds, and suggested that the Committee find ways to augment that, and then develop a resolution or a position to take to the full Advisory Council, and to then have it advanced to the Board.

Ms. Drennen remarked on a lack of good policy with regards to congestion and the HOT Lane issue, as with the equity issue, and suggested that the Committee could play a significant role in developing policy around it, because of its relative newness as a concept.



Dr. Holtzclaw commented that committee members look at the issue from a technical point of view, then evaluate the equity and look at the models; if the models appear to be working right, a certain level of comfort can be extended from the Committee to the Board.

Mr. Dawid asked the Chair whether it would be permissible, prior to the Committee taking this action, to ask the Board of Directors if this is something worthwhile for the Committee to pursue. Ms. Drennen responded that she could ask the Advisory Council Chair to ask the Chair of the Board to find that out in advance.

**5. Committee Member Comments/Other Business.** *Chairperson Drennen asked the members if they have any comments or questions of staff or other business.*

Mr. Dawid commented that he saw “The Green Guzzler”, a Yahoo! employee shuttle, burning bio-diesel, and enjoyed seeing that.

In response to a question from Mr. Dawid regarding wood smoke refunds, Mr. Brazil replied that those funds were all gone. Mr. Dawid cited a February 4<sup>th</sup> newspaper item that reported on a \$325 rebate and permit fund being offered to residents in unincorporated Marin County if they replace old and polluting wood burning heaters, and commented that Marin County appeared to have leaped in front, in the Bay Area, in terms of wood smoke. To bring to the committee members’ attention that, while what the Air District is doing is great, individual counties can go far further, Mr. Dawid remarked on a new Marin County ordinance in which the use of wood burning appliances not certified by the U.S. EPA will be prohibited by July 1<sup>st</sup> of this year.

Dr. Holtzclaw thanked Harold and Raymond for excellent presentations and for their help and guidance in moving forward.

**6. Time and Place of Next Meeting.** 9:00 a.m., Thursday, April 3, 2008 – 939 Ellis Street, San Francisco, CA 94109.

**7. Adjournment.** 11:58 a.m.

Jean Marie Mink  
Temporary Executive Secretary

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

DRAFT MINUTES

Advisory Council Technical Committee  
9:30 a.m., Monday, February 11, 2008

- 1. Call to Order – Roll Call.** Chairperson, Kraig Kurucz called the meeting to order at 9:38 a.m.

Present: Sam Altshuler, P.E., Louise Bedsworth, Ph.D., Fred Glueck, John Holtzclaw, Ph.D., Kraig Kurucz, Chairperson.

Absent: Robert Bornstein, Ph.D.

- 2. Public Comment Period.** There were no public comments.
- 3. Approval of Minutes of August 26, 2007 and October 1, 2007.** The Committee provided minor revisions to the minutes. After discussion, Mr. Altshuler moved that the approval of the minutes be deferred until Dr. Marc Fisher reviews that portion of the minutes containing his presentation; seconded by Mr. Holtzclaw carried unanimously without objection.
- 4. Update on PM Inventory Development, Modeling and Data Analysis:** *Dr. Saffet Tanrikulu, Research and Modeling Manager and Dr. David Fairley, Statistician; gave a presentation to the Committee on PM inventory development, modeling and data analysis.*

Dr. Tanrikulu, Research and Modeling Manager introduced himself to the Committee and provided his topic of discussion which was the ongoing PM study effort. The study of PM started several months ago and the focus will include the data analysis, emissions inventory development and modeling. Dr. Fairley addressed wood burning inventory improvements after his talk.

Dr. Tanrikulu mentioned that PM 2.5 concentrations exceed  $35\mu\text{g}/\text{m}^3$  (current 24-hour national PM 2.5 standard) in the Bay Area. The number of exceedances changed from one year to the next. Since PM 2.5 measurements started in the Bay Area (1999), the concentrations exceeded  $35\mu\text{g}/\text{m}^3$  as low as five and as high as thirty seven times.

The expected Environmental Protection Agency (EPA) designation includes:

- The U.S. EPA plans to designate districts in 2009, based on PM measurements in 2005-2007;
- Bay Area is expected to be in non-attainment for the federal 24-hr PM standard ( $35\mu\text{g}/\text{m}^3$ );
- Bay Area is expected to meet the federal annual standard ( $15\mu\text{g}/\text{m}^3$ ); and

- Purpose of the Air District effort is to understand PM formation in the Bay Area and provide technical information to planners

As part of the on-going PM study, a Chemical Mass Balance (CMB) analysis was conducted using data from the following air monitoring stations: San Jose, San Francisco, Livermore and Island.

The findings of the CMB analysis showed that PM 2.5 in the Bay Area is coming from the following sources or processes:

- 18% of PM 2.5 is from burning fossil fuel (mostly diesel)
- 36% from burning wood and cooking
- 44% from the formation of ammonium nitrate and ammonium sulfate
- 1% from sea salt
- 0.5% from geologic dust
- 0.5% from other sources

Analysis also showed that particulate matter transport from the Central Valley may significantly contribute to the Bay Area's PM 2.5 levels.

The on-going PM study activity includes:

- Collaborating with ARB in the CRPAQS effort (regional inventory development, data analysis and modeling) - \$28 million study over Northern CA
- Developed an ammonia emissions inventory: STI
- Improved emission estimates from wood burning: phone survey
- Studying the relation between meteorology and PM: UCD
- Simulating PM for CRPAQS measurement period (00-01)
- Conducting simulations with the wood burning and diesel PM inventories (06-07) – winter period

December 2006 and January 2007 period was extensively studied. Key finds and observations are summarized below:

- Measurement stations have good aerial coverage over the Bay Area
- In the Bay Area PM does not go to zero, even when it is raining
- PM levels go up and down together over the entire Bay Area stations, unlike ozone
- No single site is consistently higher than others, unlike ozone
- PM 2.5 exceeds the standard for 1-6 days, longer than Bay Area ozone episodes, but shorter than San Joaquin Valley or Sacramento PM episodes
- Most exceedances are in mid 40's, some are in mid 50's, lower than Sacramento and San Joaquin Valley levels
- High PM during Christmas due to above average wood burning
- No clear correlation between temperature and PM
- A strong correlation between PM and rain
- Winds are rarely calm in Bay Area, minimum daily average wintertime wind speed was about 3 miles/hr during the study period
- Low PM, when daily average wind speed exceeds 7 miles/hr

- Winds were mostly from the east during high PM days
- PM build up period was 1-3 days

Dr. Tanrikulu made these points showing various charts and tables. Additional information regarding charts and tables include:

PM 2.5 was plotted from 10 Bay Area stations from November 15, 2006 through February 15, 2007. The PM levels tend to go up and down at all stations simultaneously. Dr. Tanrikulu also stated that there is no single site consistently reporting PM 2.5 higher or lower than others. In terms of the number of days, there are some sites consistently higher than others. Duration for exceedances were as low as 1 day; and as many as 6 days of exceedances, which is longer than the ozone episodes.

Dr. Tanrikulu stated that if you look at the November, December and early January exceedances, that they are in mid to upper 40s. Also, the chart displayed one unusually high PM day, which was Christmas Day. It is believed that this was due to excess wood burning.

Mr. Altshuler commented that there are normally high readings around Christmas and Thanksgiving from wood smoke, but feels that this is mostly due to fireplaces and not from wood stoves. Mr. Altshuler explained that fireplaces are less clean and inefficient and the wood stove is relatively efficient and is not as dirty. Perhaps that the Air District may want to target fireplaces more than just generically wood burning.

Mr. Gary Kendall, Director Technical Services, responded to Mr. Altshuler stating that the Air District is considering this approach, as there were comments referring to that same topic and that there is a possibility that once the final proposal is out for the wood burning rule, it may have a tiered approach with some allowances for the use of EPA certified wood stoves. On nights when one is not allowed to burn in a fireplace, but one may be allowed to use the certified wood stove.

Dr. Holtzclaw asked if the firework particulates are included in the measurement. Dr. Tanrikulu response was yes, and that the PM from all sources is included in the analysis.

Dr. Holtzclaw asked about the location of the PM monitor in San Francisco, Dr. Fairley responded that it is located at 16<sup>th</sup> and Arkansas Streets. Mr. Altshuler asked about the chemical footprint. Dr. Fairley stated that he used gun powder and while conducting the CMB analysis and that there were some anomalies on January 1<sup>st</sup> and researched the chemical profile of gun powder and the results were significant on certain days. Mr. Altshuler asked if there were any heavy metals associated with fireworks. Dr. Fairley was not certain when Dr. Holtzclaw asked if this is how the different colors and Mr. Kendall replied that with the PM 2.5 monitors that the Air District has noticed that in the evening, and in the early morning hours after the fourth of July, that if you are looking at hourly measurements the levels go up. The Air District feels that there is a direct correlation between the firework activities and an increase in hourly PM levels.

Mr. Altshuler also asked if he thought this was more toxic and Mr. Kendall stated that he could not comment without the list of metals being used, but noted that metal compounds are used to get the various colors.

Additional slides included:

- Bay Area PM 2.5: Winter 2006-2007 – beige lines minimum temperatures
- Bay Area PM 2.5: Winter 2006-2007 – blue lines amount of rain
- Bay Area PM 2.5: Winter 2006-2007 – blue lines average wind speed; wind average 3 mph
- Bay Area PM 2.5: Winter 2006-2007 – purple lines east winds in Vallejo and Pt. San Pablo; blue lines – wind speed

Dr. Tanrikulu also covered the topic of modeling currently used by the Air District.

- MM5 for meteorological modeling
- CAMx for air quality modeling
- 4 km horizontal grid resolution
- PM emissions from wood burning and diesel combustion (no secondary PM formation)
- Initial and boundary conditions were zero

Dr. Tanrikulu stated that what the Air District is trying to do is find out whether the model is able to capture the main features of PM formation, as this is the purpose of the initial effort. Dr. Tanrikulu indicated that the information noted in the wintertime PM 2.5 emissions from residential wood combustion may be under estimated in both Livermore and Napa.

Comparison between simulation and observation include:

- Simulation is multiplied by 4.5 for the time-series and by 3 for areal plotting purposes
- Good agreement between simulation and observation
- We do not expect one to one match between simulation and observation because of assumed zero initial and boundary conditions in modeling and the use of only emissions from wood burning and diesel combustion

Mr. Altshuler commented on fireplaces versus wood stoves and that the Christmas phenomena is a fireplace and not a wood stove issue. Mr. Altshuler indicated that individuals that have wood stoves tend to use them continuously and fireplaces add the esthetic value that occurs during the holidays.

Future work includes:

- Plan to convert the 2005 CARE inventory to model ready inventory (for primary and secondary PM simulation)
- Evaluate the modeling inventory – several components include ammonia, and wood burning
- Improve meteorological simulations – currently using MM5 and in the future will consider using a different model
- Simulate PM (primary and secondary) using both CAMx and CMAQ
- Study model performance and identify areas need improvements
- Improve model performance

- Simulate emission scenarios under various meteorological conditions to better understand PM formation in the Bay Area and provide information to planners

Dr. Tanrikulu concluded his presentation. Dr. Holtzclaw asked if the Air District is more out of compliance with PM 2.5 and why is there a more severe target for PM 10 than 2.5. Mr. Kendall, responded to Dr. Holtzclaw noting that the state PM standard is 50 and that the National PM 10 standard is 150, and when taking that into account the Air District has a long way to go, in terms of meeting both the annual and the 24-hour state PM 10 standard.

There was extensive discussion regarding the presentation and the weather patterns during the study. Dr. Tanrikulu noted that the weather pattern significantly impacts the weather as a whole. The pattern includes the wind speed, wind direction, humidity and rain fall as it effects PM 2.5 concentrations and transport from the valley and secondary PM formation in addition to the sparse the air tonight calls may be impacting PM 2.5 concentrations.

Mr. Kendall noted that he assumed that the rain washes the PM out of the air, and his staff informed him that we are receiving relatively clean marine air coming in that just does not have as much PM associated with it.

Chairperson Kurucz noted that as the Air District identifies the weather conditions that have the most impact to go back to the past few years and see if they correlate to that pattern. Mr. Kendall noted that because of the 10 years of data at Santa Rosa, the seasonal rainfall is not perfect and it does correlate pretty well, but it does not explain the PM exceedances experience completely. Mr. Altshuler asked if there would be less variability from year to year if all of the bay area stations were not included in the plot to only look at specific cities such as Livermore and Napa, if it would have the same affect. Dr. Tanrikulu replied to Mr. Altshuler informing him that the Air District will use various methods for the best results.

Chairperson Kurucz thanked Dr. Tanrikulu for the presentation.

David Fairley, Statistician thanked the Committee for inviting him to participate with the presentation. Dr. Fairley stated that he will provide information to the Committee to try and improve the emission inventory estimates for wood burning. Dr. Fairley stated that he will show how ARB conducts its wood burning.

Dr. Fairley noted that a survey was conducted and this is what was used to make new estimates. Dr. Fairley stated that ARB estimates woodstove emissions and that it is based on census data where individuals were asked what is their primary source of heat; the response was that 1% of the bay area heats with wood. Dr. Fairley noted that the percentages are based on a survey county by county that was conducted by ARB.

Dr. Fairley stated that the survey was conducted for 22 days starting November 22, 2005 through February 17, 2006. This period covered the highest PM levels. Key questions from the survey were:

- What wood burning device(s) a household had (fireplace, wood stove, pellet stove).
- “Did you burn wood yesterday or last night?”
- “In a typical day that you burn wood, how many hours of the day do you have a fire burning?”

- “In a typical day that you burn wood, how many logs do you burn throughout the entire day?”

Mr. Glueck asked if these same households asked the same questions every day and Dr. Fairley’s response was no, that each household was only asked one day. Dr. Holtzclaw asked if the days were selected randomly. Mr. Fairley responded by informing Dr. Holtzclaw that it was a mixture and that the Air District oversampled weekends and also included holidays.

The information was gathered for the months of November through February and estimates were calculated based on the questions:

- Estimated total daily household hours burned and total daily household logs burned by county for each month Nov thru Feb.
- Also asked:  
“Do you ever burn wood in non-winter months, between March and October? *If no, record. If yes, ask: Which months during this period to you tend to burn wood?*”
- → This provided rough estimates for remaining months.

Comparison of survey-based emissions and ARB inventory shows that there is a difference between the estimate based on hours and logs. Dr. Fairley noted that the urban counties seem to have been over estimated by ARB, for example Alameda and San Francisco, whereas Sonoma and Marin Counties were both under estimated. Dr. Holtzclaw asked about the comparison made county by county and if this was compared by percent of the bay area total and if this was close to what ARB determined. Dr. Fairley stated that yes, the determination was based on relative amounts and not absolute. Dr. Fairly did state that the absolute did come close in comparison.

Dr. Fairley provided a summary of spatial allocation which included:

- How to estimate wood burning emissions to smaller geographic areas (e.g. neighborhoods or 4x4 km grids)
- → Use regression analysis to find variables that predict wood burning.

Dr. Fairley stated that the survey provided the zip code of every respondent, so get to the geographic level and to use the regression analysis to compare the amount of wood burning zip code by zip code, with various demographic variables zip code by zip code. They response is the amount of wood burning in either hours or logs and that the independent variables. The data included:

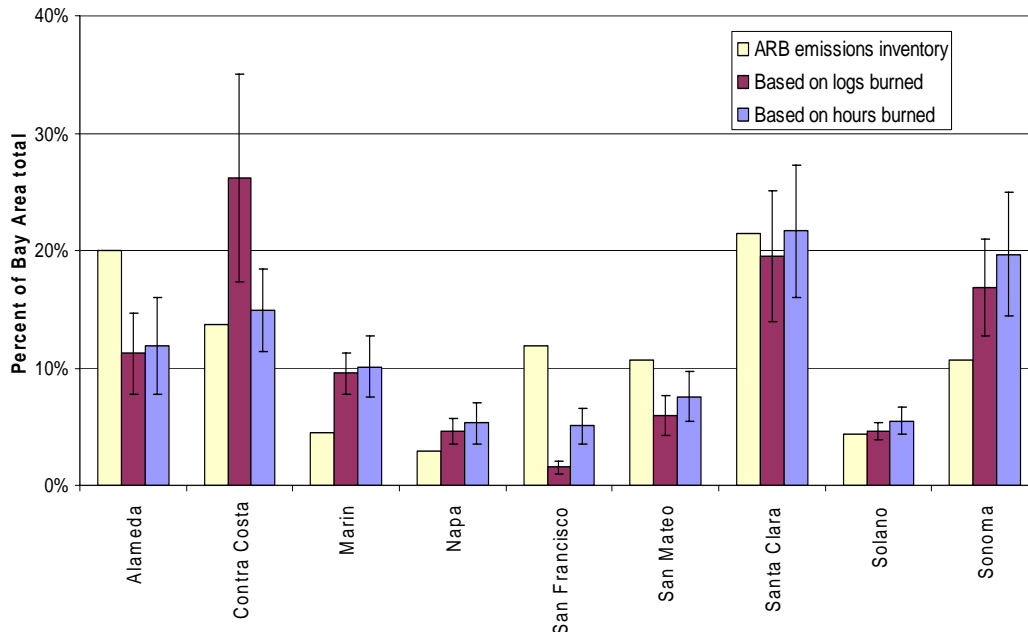
- Response: wood burning rates by zip code (from wood burning surveys)
- Independent variables from the 2000 census: population, # of households, ethnicities, income distribution, occupation, house age, housing type, # of rooms, heating fuel, down to the *block-group* level.

Dr. Fairley stated that the information is down a block group level. The census data is a smaller geographic area in tracts, within the tracts are block groups and within blocks are individual blocks and information was provided block by block. Dr. Fairley clarified for Chairperson Kurucz that census blocks are equivalent to city blocks.

The results were:

Statistically significant variables:

- House type (single-detached vs. apartment)
- % of households using wood as their primary source of heat
- County
- (Without county, income was statistically significant); stating that the higher the income the higher the amount of wood burning



Dr. Holtzclaw noted that it would be expected that lower income people would be using wood burning for heating and also expect that more wealthy homes would use it just for the ambiance. Dr. Fairley responded by stating that wood burning only increase with income, lower income households did not burn less. Dr. Holtzclaw also asked if wood burning for heating increased as well. Mr. Fairley stated that it was only wood burning.

Dr. Fairley concluded his presentation.

Chairperson Kurucz ask Dr. Fairley if he is able to conduct a sensitivity analysis where a variable is removed and see how it would look, for example the natural gas for heating to see what the impact would be if everyone had natural gas service. Dr. Fairley responded that yes, this can be done.



Mr. Altshuler suggested that going forward that there should be a combination of geography and the meteorology. Mr. Fairley responded to Mr. Altshuler and noted that this is something that the Air District will do during the modeling process.

Dr. Tanrikulu informed the Committee that the presentation consisted of 20%-25% of the work completed by the Air District to date. Dr. Tanrikulu also stated that staff has done additional work that was not presented. Also, Dr. Tanrikulu stated that the Air District is also in the process of making some assumptions for the modeling purpose (i.e. what if the Bay Area permits the use of only EPA certified wood stoves and what impact or changes would we see in emissions and what benefit would we see in reducing PM 2.5 concentration and what impact does this hypothetical rule have in the northern area versus the southern area.

Chairperson Kurucz asked if the analysis lead staff to draw any conclusions or direction with respect to the impact of local climate or local climate on particulate matter levels, where climate change would affect how the Air District would comply or attain the standards. Dr. Fairley stated that there are numerous affects of the particles and that there is some progress in the reduction of carbonaceous fraction of PM 2.5.

Dr. Holtzclaw asked if there is any consideration for the same type of modeling and analysis of the ammonium nitrates and ammonium sulfates, pre-cursors, the transport and how it is affected by weather and so on. Dr. Fairley responded to Dr. Holtzclaw stating that this would require a full photochemical model where there is ammonium inventory and includes chemistry, which is the next step and would be quite valuable.

Mr. Glueck stated that the survey did not have the consistency with regard to the number of households that were questioned, but were not questioned on a continual daily basis to identify the patterns, indicated that this would have to affect some of the randomness and that income and temperature did not seem to be a correlation and the emissions that were identified. Dr. Fairley responded to Mr. Glueck that there may be some relation with income, and that it is a surprising one that it appears the higher the income, that it appears the higher the amount of burning.

Chairperson Kurucz noted that in the future this subject matter could be revisited if there has been significant progress made. Mr. Altshuler suggested revisiting the monitoring network for woodsmoke and the COH measurement is very simple means of conducting this, but it is a real time device, to see where some of the exposures are and look at the cities that have actually adopted woodsmoke ordinances ahead of time to see if this is an improvement, and use that city as an example.

Mr. Kendall commented that the COH instruments are no longer being made and that there is a newer device by the name of aethalomometer that would provide useful readings.

Chairperson Kurucz thanked Dr. Fairley.

**5. Discussion on Objectives for 2008:** *The Committee discussed their objectives for 2008.*

Chairperson Kurucz stated that a memo was sent to the Committee members summarizing their notes from the retreat and asked if there were any corrections to the direction that was

set at that time. The primary agenda for the committee is to explore implications of climate change.

Subtopics will include:

- Synergies and Conflicts of Climate Change and Criteria Pollutant Programs;
- Implications of Fuel Choice; and
- Modeling – Integrated Multi-Pollutant Management

Chairperson Kurucz commented on the speakers scheduled going forward, that Dr. Harley is willing to come to the next meeting and that there could possibly be a conflict, as Dr. Bornstein may obtain a speaker for that same meeting as well, which corresponds with the National Convention that is scheduled and that Dr. Bornstein hopes to get a leading expert who may already be in town. Chair Kurucz asked if the Committee would be willing to extend the upcoming meeting if necessary. Chair Kurucz also asked if there would be additional time needed spent this year to build towards a conclusion and a synthesis of all the information provided, such as modeling, the potential need for additional modeling capability as the Committee decides the impact of climate change and air quality and the relationship with PM. Chair Kurucz asked if the Committee preferred additional meetings or longer meetings, stated that it has been done both ways in the past.

Mr. Glueck asked if there is a presentation update on climate change within the Bay Area and feedback with respect to the emission impacts. The consensus of the Committee is to have an extended meeting.

- 6. Committee Member Comments/Other Business.** Chair Kurucz requested that lunch be provided at the next meeting scheduled in April.
- 7. Time and Place of Next Meeting.** 9:30 a.m., Monday, April 7, 2008, 939 Ellis Street, San Francisco, CA 94109.
- 8. Adjournment.** 12:00 p.m.

Vanessa Johnson  
Acting Clerk of the Board

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

DRAFT MINUTES

Advisory Council Public Health Committee  
1:30 p.m., Wednesday, February 13, 2008

1. **Call to Order:** Chairperson Kim called the meeting to order at 1:38 p.m.

**Roll Call:** Janice Kim, M.D., Ph.D., Chairperson, Cassandra Adams, Jeffrey Bramlett, Steven Kmucha, M.D., Linda Weiner, and Brian Zamora.

**Absent:** Karen Licavoli-Farnkopf, MPH

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

3. **Approval of Minutes of December 12, 2007:** Mr. Zamora moved approval of the minutes, seconded by Ms. Adams, carried unanimously.

4. **Review and Discussion of Final Draft Strategy for Asthma as it Relates to Indoor Air Quality:** Chairperson Kim opened discussion of the ongoing topic from outgoing Chairperson Bramlett. Ms. Adams suggested adding within the Recommendations a group of resources for people with asthma who have no health insurance. Ms. Weiner would like to add the Asthma Coalition to that list – the Regional and Local Asthma Coalition to number one; because she felt they gear themselves toward those residents who are most impacted. Dr. Kim asked if staff had a recommendation about local health departments being an important resource referral. The proposal was made to move the draft recommendation to the Full Council. Ms. Adams moved approval of that proposal. Ms. Weiner seconded. The motion carried unanimously.

5. **Update on the Proposed Regulation 6, Rule 3: Woodburning Devices**

*Janet Glasgow, Air Quality Program Manager, Compliance and Enforcement division presented the group with an update on the rule.*

- Ms. Glasgow gave an overview on the Air District's Regulation 6, Rule 3: Woodburning Devices, and reviewed the Advisory Council's role in the current process. An update with what is happening in other key Districts regarding wood smoke, and a review of proposed Regulation 6, Rule 3, and issues that came out of workshops was provided. Finally, next steps were covered.
- In December 2006, the EPA lowered the 24-Hour standard for PM<sub>2.5</sub> from 65 micrograms per cubic meter to 35 micrograms per cubic meter. The Bay Area exceeds that standard on average 20-30 days per year, although this winter's Spare The Air Tonight season just ended on Monday, February 11, 2008, and only two exceedences have been recorded so far. The measurement of monitor stations

does take several weeks; there will be more being analyzed in the next couple of weeks. The largest contributor to wintertime PM is wood smoke. Wood smoke is the largest fraction of PM<sub>2.5</sub> within the Bay Area, and it is logical to focus our regulatory development and financial resources on such a large piece of the PM<sub>2.5</sub> pie. In addition, this large contribution occurs primarily during the wintertime, and therefore this is the timeframe during which our rule will focus.

- This committee took the initiative two years ago to research what other districts were doing at that time.
  - The Puget Sound Clean Air Agency and the San Joaquin Valley Unified Air Pollution Control District sent representatives to speak before the committee and work with District staff to share their experiences. Based on those committee meetings and recommendations, the full Advisory Council recommended a multi-pronged effort, specifically phased in over several years, to include rule development, increase public outreach and a District-wide incentivized wood stove replacement program. Following Board approval, staff began work in 2007 on these three approaches. Staff has continued to keep in touch with the two districts which had curtailment programs in place. Many other districts throughout California and the West had woodburning device control measures on the sale and installation end, but only these two listed districts had an actual ban or curtailment on wood burning at that time. Puget Sound has had almost 15 years of enforcement of their two-stage program. Stage I prohibits burning in fireplaces or of uncertified woodstoves at 35 micrograms per cubic meter. Stage II prohibits any burning at 60 micrograms per cubic meter, as forecast, unless it is the only source of heat for that household. Its enforcement program has several options as shown, if they find residents in violation of its rule, they do require enforcement action. They will waive the fine if a noncertified stove is replaced with a certified device.
  - San Joaquin Unified is in its fifth year of enforcing a mandatory curtailment. They utilize the Air Quality Index and use a one-stage approach, as the curtailment portion only is enforceable at one stage. They have a voluntary curtailment, which they call at 100 aqi for PM, and the mandatory curtailment is imposed at 150 aqi. Last winter they had 39 mandatory curtailments, and had up to 50 voluntary curtailments, because they call it by county, it varies across the district, depending upon which county you are looking at. Its curtailment is also based PM<sub>10</sub>, because they have had it in place before the new standard went into effect for PM<sub>2.5</sub>.
  - Sacramento Metropolitan AQMD did adopt a mandatory episodic curtailment rule in October 2007, with two different curtailment levels, on top of a voluntary level.
  - South Coast AQMD has been in rule development for over a year. They propose a mandatory curtailment, but only beginning in the year 2013, and it would be only targeted to areas where they have exceedences.

Ms. Glasgow reviewed the provision in Regulation 6, Rule 3:

- Curtailment – no burning – in any woodburning device would be required when PM<sub>2.5</sub> is forecast to reach unhealthy levels, indoor and outdoor, which is under Regulation 5 at present. Recreational fire was basically defined, not to include food cooking.
  - Exemptions for sole source of heat
  - Exemption for unavailability of natural gas
- Visual limit will be 20% opacity. District inspectors are certified to read the plumes.
- Exemption for startup of a new fire for a period of 20 minutes within any 4-hour period.
- Sale of new or used devices require devices to be
  - EPA Phase II certificated
  - Pellet fuel
  - Masonry heater
  - Approved in writing by the Air District and meet low-mass fireplace emission targets
- Any new construction involving installation would have to meet the same criteria as the sale of any device
- Prohibition of garbage burning, and burning of inappropriate materials, such as:
  - Chemically treated wood
  - Non-seasoned wood
  - Plastic
  - Paint
  - Particle board
  - Pallets
  - Any other material not intended for use in a woodburning device
- Requirement for sale of wood intended for home fire use, to have a moisture content of 20% or less by weigh, with labeling to that effect; and a public awareness statement on that label about curtailment, contact information for curtailment notifications, and health effects of wood smoke.
- Regulations 1 and 5 need amendments for indoor and outdoor residential burning residential heating and recreational fires.

Ms. Glasgow reviewed the Public Workshops that were held, media, and public responses. The concerns reached from these workshops were as follows

- EPA certified woodburning devices and pellet stoves should be allowed to burn during any curtailment period.
- Smaller curtailment areas within the District, similar to San Joaquin's District
- Sole source of heat exemption needs clarification
- Consider a low income exemption related to sole source

- Curtailment threshold needs to be explicit
- How will curtailment be enforced?
- How will the public know when to burn and when not to?
- Could the District require distribution of public outreach information on wood that is sold?
- The labeling requirement for this District would be too costly
- Was the mandatory curtailment provision constitutional?

Next steps, Ms. Glasgow stated that the Technical, Legal, Planning and Engineering staff was evaluating the comments received to find what could be incorporated and what would not. This was expected to be done shortly, as was revisions to the draft regulation; after that, a socio-economic study and CEQA review were anticipated, as was a full EIR, with refinery flare minimization and the toxics new source review rule as precedents. Focus on the EIR for this rule would be on the generation of greenhouse gases resulting from regulating indoor woodburning. An enforcement plan was being developed, as well as outreach for notification purposes and education, in future workshops.

Ms. Weiner asked if there was any language addressing management of rental units' responsibility for enforcement, for low income renters who want to comply, but cannot afford to fix the fireplace in their apartment. Ms. Glasgow responded that more specific exemption provisions were being put into the rule. Dr. Kim inquired whether the public comment period was closed, to which Ms. Glasgow responded that it was. In response to a question from Dr. Kim, Ms. Glasgow stated the regulation would be enforced during the wintertime, as PM<sub>2.5</sub> exceedances had not occurred outside of that period; however, the visible emission standard would apply all year round.

Ms. Adams inquired what percentage of the 20% limit for off-road would be for construction equipment; Ms. Glasgow indicated she would provide that information, as well as agricultural burning. Ms. Adams asked what the sources were for Ammonium Nitrate and Ammonium Sulfate, to which Ms. Glasgow and Planning Department Director Henry Hilken replied that they are "NO<sub>x</sub>" emissions from refineries, feedlots, sewage treatment plants, marshes and industrial sources. The District has contracted to get a specific inventory for the Bay Area for Ammonium, for PM modeling.

Discussion ensued regarding public comments and reporting to Advisory Council in advance of the rule adoption.

Mr. Zamora asked about enforcement being complaint-driven. Wayne Kino was referred to by Ms. Glasgow as the person working on a plan addressing this; Mr. Kino referenced a method of using infrared technology for reading, with a step-by-step approach to enforcement, and noted night-certified inspectors as well.

Dr. Kim asked about opportunities for a hotline to alert inspectors. Mr. Kino responded that some combination would include areas to survey with complaint traffic to alert inspectors. Ms. Glasgow added that enforcement had moved from strictly complaint-based to a hybrid model, incorporating surveillance, in use by other districts more recently.

Mr. Zamora suggested the announcements regarding workshops, if forwarded could be put up on websites.

Mr. Bramlett asked if low income exemptions take into consideration ambient health hazards posed to neighbors. Ms. Glasgow responded that the sole-source exemption originally proposed was misconstrued by many people, and indicated it was being re-written to address the meaning of “sole-source” of heat, and every other consideration would be spelled out individually.

Dr. Kim thanked Ms. Glasgow for her work.

**7. Discussion for Possible Topics/Guest Speakers for Future Meetings**

*A discussion regarding assignments commenced, including the following points:*

- CARE report; gather perspective from different stakeholders in anticipation of the report coming out sometime this year.
- Briefing from staff on the CARE program could be scheduled
- Air Resources Board is working on Health Risk Assessment for West Oakland, scheduled for March 2008
- Update in April to the Committee on ARB’s HRA
- Possibility of Health Officer from Alameda County to speak to the Air Quality issues in West Oakland and what the Air District can do
- The Port’s perspective

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

*Committee members or staff made comments and announcements and asked questions.*

**6. Time and place of next meeting:** 1:30p.m., Wednesday, April 9, 2008, Room 716, 939 Ellis Street, San Francisco, CA 94109.

**7. Adjournment:** The meeting adjourned at 2:40 p.m.

Jean Marie Mink  
Temporary Executive Secretary

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, California 94109  
(415) 749-5000

DRAFT MINUTES

Advisory Council Executive Committee  
9:00 a.m., Wednesday, March 12, 2008

1. **Call to Order – Roll Call:** Chairperson Louise Bedsworth, Ph.D., called the meeting to order at 9:05 a.m.

**Present:** Louise Bedsworth, Ph.D., Chairperson, Jeffery Bramlett, Harold Brazil, Emily Drennen, Janice Kim, M.D.

**Absent:** Kraig Kurucz.

**Also Present:** Sam Altshuler.

2. **Public Comment Period:** There was none.
3. **Approval of Minutes of March 12, 2008:** Mr. Brazil moved approval of the minutes as amended, second by Ms. Drennen, the minutes carried unanimously.
4. **Standing Committee Chair Reports:**

Air Quality Planning Committee Meeting of February 7, 2008 – Emily Drennen, Chairperson. Ms. Drennen stated that in February there was a fantastic presentation from two individuals from the Metropolitan Transportation Commission (MTC). The presenters were Ray Kon and Harold Brazil, as the both talked about the Regional Transportation Plan (RTP). The brief outline for the calendar was that division policy strategies were to be adopted in mid March. In July MTC is scheduled to adopt a constrained financial investment plan, with the hope of adopting RTP in February 2009.

Some of the goals were to reduce Vehicle Miles Traveled (VMT) 10% from today, and a drop in particulate matter (PM). There was a call for projects on March 5, 2008 so this is where the projects were gathered throughout the region. Ms. Drennen, further stated that Mr. Brazil spoke about Economy, Equity and Environment and its 3 goals of the RTP. The base case from ABAG is a 25% increase in population from 2006 to 2035; a 30% increase in VMT in the same period and a 50% increase in jobs in the same period and this is without doing any and this information was provided by ABAG.



Mr. Drennen further stated that there was an interesting analysis conducted in numbers of gallons of gas per day, per person regionally. At present, individuals use about one and one quarter gallons of gas per person and the target in 2035 is sixth tenths of a gallon. In addition, there were 3 investment scenarios that RTP is reviewing, essentially looking at 3 different ways of looking at it. 1) invest the money through highways and getting more efficiency from the highways; 2) to increase the number of HOT lanes and express buses, doubling their time bus speed; and 3) a regional rail/ferry solution. However, even the best 2 to be used are still 25% over the target for PM 2.5 and PM 10 was 120% over the target. This indicates that there is still some ways to go, even with those 3 different strategies. In the end, it looks as if there will need to be an integrated strategy or pieces of those 3 include increasing the efficiencies of the highways, new congestion pricing, HOT lanes, buses and regional rail. Pricing needs to be changed in the near term, change the land use in a much longer period of time and change the attitudes and behavior regionally, in regards to transportation in over a longer period of time, and technology will help.

Hopefully, the Committee will look at congestion fees in other cities and areas and how they work in terms of reducing air quality and also, and how they are funding transit. Also, the Committee hopes to provide some advice to the Air Quality Board regarding the policy implications of these congestion rules.

Ms. Drennen concluded her report to the Committee.

Chairperson Bedsworth informed the Committee that she spoke to Mr. Broadbent, Executive Officer/APCO with regard to having a presentation for the entire Council on RTP, so that everyone is familiar with the process. Dr. Kim asked about the overall reduction of PM and it being tied to the Air District. Mr. Brazil responded that the emission inventories were generated for the 3 basic pollutants and the analysis that was conducted. The 3 were CO<sub>2</sub>, PM 2.5 and PM 10. There were 3 investment transportation system investment scenarios. These were crossed tapped with 3 policy changes, which included land use changes, and pricing strategies that were separate from whatever pricing that was going on with HOT lanes. Overall, there were 18 scenarios that were tested, which included the baseline scenarios. Once the emission inventories were generated, they were all on-road mobile source emission inventories, which included transit vehicles, as rail and ferry was not included.

Mr. Brazil stated that with land use changes there were changes in the travel characteristics, such as changes in speeds, changes in congestion and decreases in VMT. The investment in HOT lane, express bus one can see a shift in motor travels you can see a reduction in VMT. This is where you will see a change in the emission levels for the different pollutants. Mr. Brazil stated that there were some targets that were set by the Governors Executive Order, therefore leaving the horizon year on the RTP as 2035 as this is the half way mark between 2020 and 2050 in the executive order. This is in attempt to get back to 1990 based on 2020 and then give get 80%

below in 2050, so 40% below just with the CO<sub>2</sub>, and continue to work with the Air District to establish 10% PM 2.5 and 40% on PM 10.

Jean Roggenkamp, Deputy Air Pollution Control Officer stated that the Air District is very pleased with the efforts that MTC is making and is quite challenging, but it also helps define the policy with transportation choices but with an air quality perspective, in addition to many other perspectives.

Chairperson Bedsworth commented that if none of them meets the target, which strategy will be the best of the three. Mr. Brazil responded to Chairperson Bedsworth and stated that the policy changes were a separate land use scenario change, the other was the pricing change and those were combined and found out that they were still short and added on the 2 additional categories, which included telecommuting to reduce VMT so those 2 were at the bottom. The policies combined with the freeway performance initiative, which includes ramp metering and message board systems, and the HOT lanes, those were the 2 that provided the best results from an emissions perspective. This was the closest to getting everyone getting to the target, but for CO<sub>2</sub> it is 80% over the target and it was even worse for PM.

Mr. Brazil further stated that the PM 2.5 target is easier to get to as that only requires a 10% reduction, but the PM 10 target is a 40% reduction from the 2006 base year level. As this made the scenarios 125% over the target with the best 2 scenarios, as the analysis is just a preliminary analysis, the projects are now being collected that are being submitted to see if these will be included in the RTP.

Ms. Drennen has stated that the RTP is looking at drastically increasing the cost of driving. This would include increasing the cost of driving five times and Mr. Brazil stated that he believes that is double. Ms. Drennen also stated that this is why

Jean Roggenkamp, Deputy Air Pollution Control Officer clarified that the position of the Public Health Officer would need to be considered during budget discussions.

Chairperson Bedsworth moved forward with the list of topics. The topics included information received from council members and from Jack P. Broadbent, Executive Officer/Air Pollution Control Officer.

Going forward Chairperson Bedsworth suggested committee members consider which topics each Committee would consider and the order of consideration. There may be overlap with other Committees. For instance, climate change issues conflict with criteria pollutant goals, which might want to be considered by several committees. Chairperson Bedsworth noted one example that Mr. Broadbent brought up. Specifically, if the CO limit for Stationary Sources was raised, they could operate more efficiently and reduce greenhouse gas emissions. It was suggested that this may

be a good topic for the Technical Committee to discuss. The Planning Committee should think about transportation and land use planning, smart growth issues and how they can be tied together.

It was noted that having presentations given to the Advisory Council as a whole on topics of interest to multiple committees will help to eliminate multiple committee presentations. This possibility can also be thought about in the Committee discussion, but certainly in the follow up discussion. Chairperson Bedsworth requested each Committee Chair develop a regular schedule of meeting dates.

Mr. Blonski commented that from a planning perspective the Committees should identify outcomes that are desirable so that it is not just discussion on a particular topic, but it is working toward a product that can be brought forward to the full Council.

Chairperson Bedsworth agreed and noted that there will be topics that will just be for discussion, but there will also be topics where recommendations will be made and identifying those topics early on and providing a timeline for when the recommendation will be brought forward to the Council will insure that meetings occur on schedule and that the recommendation is made in a timely manner to the Air District. For example, if the Council was to consider the potential gas fee and what the Air District might do with that type of money, then the Council would try and have recommendations from the Council brought forward in the summer, etc.

Mr. Altshuler suggested that more attachments be included with the minutes, as it will make the minutes more complete.

Mr. Glueck has suggested that if there are presenters, to try to get them to provide their documentation as reference to verify the facts or statements made.

Chairperson Bedsworth suggested that guidelines be provided to speakers that may include providing their presentation, as well as providing the Committee with the highlights.

Dr. Kim asked that the presentation also be attached, when there are minutes for approval. Mary Ann Goodley, Executive Office Manager agreed that going forward this would happen.

Dr. Kim indicated that she was not aware of a template being circulated with regard to the goals and objectives and Chairperson Bedsworth commented that it was only a discussion. It was noted that the Executive Committee would work to formalize a memo of some sort to provide to speakers.

- 5. Committee Member Comment/Other Business:** Mr. Blonski asked how the information should be recorded during the breakout session with the respective

Committees. Mr. Kurucz responded by informing Mr. Blonski that the information would be reported after the breakout session.

**6. Time and Place of Next Meeting:** 9:00 a.m., May 14, 2008, Conference Room 716, 939 Ellis Street, San Francisco, CA 94109.

**7. Adjournment:** The meeting adjourned at 9:50 a.m.

Vanessa Johnson  
Acting Clerk of the Board

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
(415) 749-5000

**DRAFT MINUTES**

Advisory Council Regular Meeting  
10:00 a.m., Wednesday, March 12, 2008

**CALL TO ORDER**

Opening Comment: Chairperson Bedsworth called the meeting to order at 10:02 a.m.

Roll Call: Louise Bedsworth, Ph.D., Chairperson, Sam Altshuler, Robert Bornstein, Ph.D., Harold Brazil, Jeffrey Bramlett, Irvin Dawid, Emily Drennen, MPA, William Hanna, John Holtzclaw, Ph.D., Robert T.P. Huang, Ph.D., Janice Kim, M.D., and Karen Licavoli-Farnkopf (10:06 a.m.), MPH., Linda Weiner, and Brian Zamora.

Absent: Cassandra Adams, Ken Blonski, Fred Glueck, Steven Kmucha, M.D., and Kraig Kurucz.

**PUBLIC COMMENT PERIOD:** There was none.

**CONSENT CALENDAR:**

**1. Approval of Minutes of January 9, 2008:** Mr. Zamora moved approval of the minutes, Dr. Holtzclaw seconded the motion with minor edits; the minutes carried unanimously.

**COMMITTEE REPORTS:**

**2. Air Quality Planning Committee Meeting of February 7, 2008** **Emily Drennen, Chair**

Ms. Drennen reported on the Regional Transportation Plan (RTP) 2035 presentation given by Metropolitan Transportation Commission (MTC) staff members, Ray Kan and Harold Brazil, stating the RTP's brief timeframe:

- Vision policy strategies adopted Mid-March
- Call For Projects to all Bay Area participating agencies March 5th
- MTC hopes to adopt preliminary financially-constrained investment plan July
- RTP to be adopted February of next year.

Goals for the RTP were reported as:

- 10% reduction in VMT from present totals
- Reductions in particulate matter (PM):
  - 10% goal for PM<sub>2.5</sub>
  - 40% goal for PM<sub>10</sub>

Ms. Drennen stated that three areas were looked at, i.e., Economy, Equity and Environment, and base-case scenarios were considered. The MTC is examining three basic investment scenarios:

1. Increasing highway efficiency through metering lights, et al.
2. Increase funding for High Occupancy Toll (HOT) lanes and for increasing regional and local bus service.
3. A Regional Rail and Ferry investment scenario.

It was noted that the best scenarios were still 25% over the target for PM<sub>2.5</sub>, 120% over target for PM<sub>10</sub>, and 80% over the target for CO<sub>2</sub>. Ms. Drennen stated that an integrated strategy between all three of those areas with interesting pricing strategies on gasoline and driving would be needed in the near term. Ms. Drennen further remarked that a drastic increase in the cost of driving to influence behavior, change in land use patterns in the longer term, changing attitudes and behaviors regarding transportation, and investigating how technology is going to help with that was being considered by the MTC.

Ms. Drennen concluded the report and related potential next steps for the Committee:

- Examination of congestion driving fees in other areas—specifically:
  - how transit is funded
  - equity issues arising from fees
- Development of policy on this to present to the Advisory Council

Mr. Altshuler remarked that concerns regarding PM have changed since the 1980s, and encouraged everyone to look toward PM<sub>1</sub> and PM<sub>2.5</sub> in future planning, and not confine themselves to something like PM<sub>10</sub>.

Mr. Dawid commented that MTC is discussing increasing the cost of driving by five times, and expressed concern about whether and how the High Occupancy Toll plan would be implemented.

#### **4. Technical Committee Meeting of February 11, 2008**

**Dr. Louise Bedsworth**

Dr. Bedsworth reported that the Committee had discussed the following issues:

- PM inventory development
- Modeling issues
- Wood smoke
- Estimates of the wood smoke contributions to the PM inventory

And projected that the next meeting would include a look at climate change and criteria air pollutant issues interaction, and that Rob Harley will likely come to speak about modeling future air quality under climate change scenarios.

With regard to single models involving toxics, criteria air pollutants, and greenhouse gases, Dr. Bedsworth asked Dr. Bornstein to talk about the possibility of an expert speaker to address the Advisory Council on the topic in May. Dr. Bornstein replied that S. T. Rau [sp?], in charge of modeling for the EPA at Research Triangle Park, developed all of the models that the District uses and he would be coming to the area late on May 14th, and available from 9:00 to 10:30 a.m. on the 15<sup>th</sup>. Dr. Bedsworth agreed to work with Ms. Goodley to poll on rescheduling the next Advisory Council meeting.

Dr. Bornstein reported that Phil Duffy who works on climate change evaluation for California at Lawrence Livermore was also willing to come speak, and suggested Mr. Duffy and Mr. Harley speak together. Dr. Bedsworth suggested Committee Chairperson Kurucz could be consulted to arrange this.

#### **4. Public Health Committee Meeting of February 13, 2008**

**Janice Kim, Chair**

Dr. Kim reported the Committee reviewed and approved the final draft strategy for the resolution on asthma and indoor air quality, and was working with the Air District staff to get their final thoughts on the resolution, and expressed that it should be ready for presentation at the next full Advisory Council meeting in May. Dr. Kim continued that an excellent presentation was given by Air District staff member Janet Glasgow as an update on the proposed regulation of wood burning devices, and noted that a full presentation on the topic by Kelly Wee and Eric Pop would follow the Committee reports. In conclusion, Dr. Kim stated the Committee anticipated the CARE program would be the main project for the rest of the year, noting that Air District staff would present on the CARE Project and the Air Resources Board's West Oakland Health Risk Assessment at the Committee's next meeting.

Mr. Altshuler commented on an editorial on the front page of the Sunday Chronicle that said asthma rates are going up in spite of air pollution going down, and added that perhaps there are some non-air quality issues affecting the incidences of asthma going around. Discussion ensued on various factors affecting asthma.

### **PRESENTATION**

#### **5. Presentation and Overview of Air District's Proposed Regulation 6, Rule 3: Wood-burning Devices**

**Kelly Wee**

*Kelly Wee, Director of Compliance and Enforcement, presented Regulation 6, Rule 3 background and history to new Advisory Council members and updated the members on other Air District rules regarding wood burning. Eric Pop, Air Quality Specialist, gave an overview of the Draft Regulation 6, Rule 3.*

Commencing his presentation, Mr. Wee recounted that in December 2006 the EPA lowered the national ambient 24-hour air quality standard for fine particulate PM<sub>2.5</sub>—PM smaller than 2.5 microns, i.e., approximately 1/70<sup>th</sup> the size of a human hair—a very small particle and a significant health concern. It was lowered from 60 to 35 micrograms per meter cubed. Based on 24-hour averages in a 7-8 year history, the Air District exceeds that standard on average 20 to 30 days per year. A complex analysis revealed that the largest contributor to fine PM is wood smoke; therefore, the Air District is moving forward with a wood smoke regulation.

Mr. Wee stated that Air District staff concluded that fine PM in the Bay Area has demonstrated characteristics of a regional pollutant. Using complex chemical mass balance (CMB), carbon 14 (C-14) dating, some speciation, and combining that with inventory data to break it down into components or contributors to fine PM at San Jose (the highest PM location), it was determined that wood smoke represents about one third of the PM<sub>2.5</sub> on peak nights during winter—even with the voluntary curtailment program, i.e., asking people not to burn on Spare the Air Tonight, wood smoke still amounts to one third.

Dr. Bornstein inquired whether this was based on observations of the particles or knowledge of the emissions, to which Mr. Wee replied, it is primarily both. Additionally, Mr. Wee continued, it is based on filter catches; chemical analysis of organic carbon versus elemental carbon, and a chemical mass balance analysis, some carbon 14 dating, and then in some areas the inventory is used to tease out some of these categories. Dr. Bornstein remarked that the District and he were going to do a study for the San Jose Airport to look at the signatures from it, because the people from around the airport said they were being affected. Dr. Bornstein noted with interest that one of the presentation's graphs showed aircraft as three times larger than marine, and asked how the aircraft signal was found. Henry Hilken, Director of Planning, Rules, and Research, responded that it is based on the source profile of the emission. Mr. Wee clarified that marine was not marine combustion emissions; it was sea salt, not shipboard. Shipboard would be included in off-road, as 20 percent. Mr. Dawid asked whether on-road and off-road were both transportation emissions being discussed. Mr. Wee responded that off-road could be marine or construction equipment, and provided a breakdown of the terms: if DMV issues a registration license, it would be on-road; if not, then it would be in the other realm and could include heavy duty diesels, at construction sites, etc.

In response to a question from Mr. Hanna on how wood smoke contribution compares on an average winter night to the peak in terms of its percentage, Mr. Hilken declared that it would be 20-25%. Mr. Wee explained that it could be a little bit less, because patterns for high PM typically show three consecutive days without rain, light easterly winds less than 5mph, and cooler temperatures, during which you tend to see higher emissions from wood. An average day would be expected to be less.

Mr. Wee related that the Air District's information on contributors to PM<sub>2.5</sub>, had been developed through an analysis of filter catches and knowledge of emission inventory. Some additional information was derived from random telephone surveys of the residents contributing to this wood smoke signature. Regarding the different types of wood-burning devices and how they are contributing to the overall PM loading, Mr. Wee reported the following:

- Fireplaces are the highest emitters
- Non-certified wood stoves at four percent of the inventory
- Certified stoves, another four percent
- Pellet stoves are estimated at one percent of the inventory

Mr. Wee provided a photographic comparison of a control filter catch and an exposed one at the Concord station, in service for 24 hours, on Christmas Day of December 2006. Dr. Bornstein asked about the weight of the material on the exposed filter. Mr. Wee replied that it was 62.2 mcg per cubic meter for Concord. Dr. Bornstein asked whether a typical value would be several grams or several tenths of a gram. Mr. Hilken responded that it would be less than that, a very small amount.

Mr. Oku asked the number of monitors there were. Gary Kendall, Director of Technical Services, replied that there were ten. Mr. Wee continued, explaining that use of BAMs, or beta attenuation monitors, is the federal reference method from which they base the standard. Mr. Wee further explained that the Air District has BAMs which allow monitoring of hourly concentrations, which had not yet been approved as a federal test method, but noted they are helpful in planning.

Mr. Wee continued with an EPA chart entitled "PM Pyramid of Effects", representing the population proportionally affected by particular health effects: the particulate matter (PM) at the pyramid's bottom showed minor health effects that affected a wider proportion of the public; at the tip were



death and premature death, affecting a smaller proportion. This was behind the EPA establishing new ambient air quality standards for PM.

The following slide depicted wood smoke as a significant contributor to PM<sub>2.5</sub> loading, and overlaid it with the 24-hour national standard of 35 micrograms. Mr. Wee opined that without a wood smoke regulation, there would be no possibility of attainment.

In response to a question from Dr. Bedsworth about the source of ammonium nitrate, Mr. Wee replied that ammonium nitrate and ammonium sulfate are secondary PM; that with fine PM you have both primary-emitted PM, like wood smoke, and secondary PM, which forms in the atmosphere from other precursors, and so ammonium nitrate comes from nitric acid and ammonia interacting together to form ammonium nitrate; nitric acid comes from NO<sub>x</sub>.

In response to a question from Dr. Bedsworth, a discussion ensued regarding the constitution and combustion of fossil fuel. Dr. Bornstein inquired about types of monitoring stations, and Mr. Wee responded that by definition, the NAMS—National Air Monitoring Stations—must represent population areas and cannot be source-affected. Mr. Kendall added that the network has to conform to EPA monitoring of the environment, but that the stations are not all the same, and further noted that there have been tremendous reductions in criteria pollutants in the emissions inventory since 1998. Dr. Kim commented about ultrafine particles, and discussion thereof ensued. Dr. Huang asked whether the number of monitors would have an effect on the data. Mr. Wee replied that he did not think that it would alter the data significantly, but noted that it was a special study for the San Jose site; this speciation was not available for every monitoring site. There followed some additional discussion of monitoring sites.

In response to a question from Dr. Holtzclaw about whether the source of the ammonium nitrate was possibly fertilizers, Mr. Wee stated the ammonia component was the natural component in the environment from decomposition of NO<sub>x</sub>. Mr. Kendall expanded on the topic, adding that volatile organic compounds (VOCs) and NO<sub>x</sub> react in the atmosphere to form ozone during the summer; however, in the winter, the same chemical processes that convert NO<sub>x</sub> to NO<sub>2</sub>, for example, actually convert some of the NO<sub>x</sub> to nitric acid.

Mr. Wee continued with a graph representing high-PM events from early December of 2007, noting a carryover or buildup effect had led to a conclusion that there was a regional aspect to PM<sub>2.5</sub> and that fine particulate tends to stay airborne for a longer time.

The graph that followed depicted 48-hour verse trajectory modeling, done by the Research Department, indicating movement of PM affected by winds. Mr. Wee gave another example that involved wood smoke emissions that occur in Sonoma and Napa Counties, move around the Bay Area and contribute to PM levels elsewhere over a longer scale of time. Thereafter Mr. Wee provided a Bay Area wood smoke inventory, which included the number of households and wood-burning devices, wood smoke percentage of peak PM<sub>2.5</sub>, and types of contributors.

Mr. Wee continued with some Advisory Council history: in 2006, the Public Health Committee asked the Air District to help examine the experiences of other Air Districts. San Joaquin, Puget Sound, and other Air Districts were looked at, and a set of recommendations was made to the District's Board of Directors to address fine PM over multiple years. An update was given on what these Districts were doing, noting that the Puget Sound Clean Air Agency had been working on PM the longest amount of

time, with a curtailment provision in their rule and citations for burning on no-burn nights. San Joaquin made some press from citations they issued last year, and phased in their program over multiple years. Sacramento Metropolitan Air Quality Management District adopted a multiple-stage curtailment program last October, and last week South Coast adopted a rule with very similar elements to the Air District's, except that their curtailment program is not set to be implemented until 2011 and only if necessary to meet the standards and only in specific areas. There followed a discussion, led by Mr. Dawid, of the South Coast's prohibition of new wood-burning devices in new building.

Mr. Wee spoke about the outreach component of the wood smoke strategy as well as a cleaner burning technologies incentives program, and introduced his colleague Eric Pop, Air Quality Specialist, to speak about the proposed regulation rule.

Mr. Pop outlined components of the proposed rule:

- Curtailment, i.e., no burning in any wood-burning device, will be required when airborne PM gets to unsafe levels. The focus of this standard is to require residents of the Bay Area to refrain from burning during these critical nights. The forecast for a no-burn day would be made that morning, based upon meteorological and monitoring station data. Two exceptions to the no-burn rule exist:
  - a. The sole source of heat exemption
  - b. Where natural gas is not available.
- The second standard is visible emission limitations. This will require that people burn cleanly, i.e., hot fires with sufficient air to produce less PM.
- Thirdly, a device sale provision; as of now there are four devices approved for sale in the Bay Area. They are:
  - c. EPA Phase II devices
  - d. Pellet stoves
  - e. Masonry heaters
  - f. Zero-clearance fireplaces.

The EPA is presently developing a test method for target emissions for these devices. This requirement, if the method is developed in time, will allow for approval of these devices, at the Air Pollution Control Officer's (APCO's) discretion per device.

- The fourth standard would be applied to new construction. (Discussion of South Coast regulations versus the proposed rule ensued.)
- In discussing a provision for prohibition on burning garbage, Mr. Pop listed the ancillary inappropriate materials included therein:
  - chemically treated wood
  - non-seasoned wood
  - new or used wood pallets
  - plastic and rubber products
  - petroleum products
  - paints and paint solvents
  - particle boards
  - materials not intended for use in a wood-burning device

- The last standard of the proposed rule is the seasoned wood and solid fuel labeling requirement that all wood sold must have a label affixed to the package, indicating that it has a moisture content of 20%, or less, by weight and a label notifying consumers of how to find out when there is a curtailment on burning the product.

Mr. Pop reported on seven previously-held Bay Area workshops, media responses, and phone traffic. Concerns and comments were outlined as follows:

- People frustrated they wouldn't be able to use EPA-certified devices, which they spent several thousand dollars to upgrade to, during curtailment nights
- Cleaner devices should be encouraged in the regulation (as exemptions to curtailment)
- Consideration of smaller curtailment zones
- Need for clarification of the sole-source-of-heat exemption
- Exemption for low-income—Pop explained that there is no low-income exemption in this proposed rule because what is wanted is, not more pollution in low-income areas but, to reduce pollution across the board
- A well-defined threshold for curtailment
- Enforcement of the rule
- Provision of public outreach with specific information regarding curtailment
- Cost of labeling requirement—this from representatives of the manufactured log industry
- Constitutionality of curtailment

The Air District will continue to evaluate comments and incorporate them, when appropriate, into the next final draft of this proposed regulation.

Mr. Pop concluded with next steps: completion of the environmental impact review (EIR), a public hearing of the proposed regulation during the summer of this year, and nine public informational meetings throughout the Bay Area within the next three weeks to explain the Rule, the proposed Regulation, to address comments, to discuss how it will be enforced, and reiterate public health concerns.

Mr. Altshuler congratulated the two speakers on an excellent job, handed out his own draft resolution for Advisory Council consideration, and opened discussion on wood as a renewable fuel. As a point of order, it was confirmed by Mr. Bungler, Air District Counsel, that Mr. Altshuler's draft resolution would need to be amended, according to the 72-hour rule. Mr. Wee addressed the greenhouse gas issue, saying that, while the International Plant Protection Convention (IPPC) does say that wood is zero, many people do not agree with that. A complete EIR is being done, to address any potential climate change issues, with the aspects of this rule.

Ms. Weiner thanked the presenters and the Air District, and inquired about landlord responsibility, with regard to low-income tenants. Mr. Wee explained that in an average winter, there are 20 or 30 where curtailment would be called. To shift from wood to natural gas, costs approximately \$2 per day; and with a maximum 30 nights per year, totaling only \$60 over a winter in additional costs to comply with the rule. That issue will be taken up as part of the socio-economic impact analysis for the rule, which will occur a bit farther along in the process.

Jack Broadbent, Executive Officer/Air Pollution Control Officer, added to Mr. Wee's remarks about the financial aspects by stating that, regardless of financial need, no one has the right to pollute their neighborhood or impair the health of their neighbors. In response to a question from Ms. Weiner

about financial incentives to help, Mr. Broadbent replied that there would still be a financial incentives package and program to offset the cost of putting in natural gas inserts, etc., and that where there is no source of heat other than wood burning in the home, there is an exemption developed into the rule.

Ms. Drennen raised the possibility of sending Mr. Altshuler's resolution to the Public Health Committee for a review and return to the full Council. In terms of legality, Ms. Drennen wondered if it would be to the Advisory Council's benefit to change agenda items to be information/action, in case someone comes up with a proposal like Mr. Altshuler's. Mr. Bunger replied that the only way to do that is to know what the proposal is in advance of the meeting, noting it can not come from the dais, unless it is proposed 72-hours in advance of the meeting per meeting agenda obligation.

Ms. Drennen asked whether subsidies were for change-outs only, or could new products be installed, where there hadn't been any. Mr. Wee replied that the subsidy is only for older, dirtier technology, i.e., either eliminating a fireplace, or eliminating an older, dirtier wood stove, or woodstove insert.

Mr. Broadbent cautioned the Council not to look necessarily at what South Coast does and think that it ought to be applied here. Having worked there for fifteen years and lived in Southern California for 25 years, Mr. Broadbent said he had *never* burned any wood in his fireplaces in Southern California, including in the mountain region. It is a very different lifestyle in Southern California, and particularly in this particular area, in terms of wood smoke. Mr. Broadbent mentioned that it is very easy for the South Coast to prohibit fireplaces because they are not used much, and noted that the relative contribution of wood smoke to PM<sub>2.5</sub> is different in the Bay Area and Northern California as a whole, and added that the differences had been talked about at CAPCOA—the air pollution officer's association—quite a bit.

Mr. Hanna inquired whether concern from the rural hillsides about burning seasoned and dried wood that had been cleared for wildfire prevention had been addressed in the EIR. Mr. Hanna further noted that, in addition to energy efficiency considerations, the cleared wood would need to be dealt with anyway. Mr. Wee replied that that was true, and the reason why Napa County, in particular, has been very progressive with their Firewise program. The Air District has partnered with Napa County to help them develop this Firewise program; basically a free chipping service. People can do the setback or clear space requirements and then call the program; they will come and chip it at no cost. The Air District would prefer to see any pieces that are too big to chip properly seasoned and dried before they are burned. Mr. Altshuler commented that collection of forest debris for use in power plants would be ideal, in that chipped wood or wood that is left to decay in the forest puts out CO<sub>2</sub> regardless, and if energy could be extracted, and the use of the carbon or fossil fuel offset, it would all be for the better—provided it stay within the air quality constraint.

Mr. Brazil thanked the speakers asked if the Air District had done any modeling to see if it would meet the standard with the regulation in place. Mr. Wee replied that modeling for fine PM is just in its infancy with approved models and just starting to get runs, so the short answer, is no because the modeling isn't quite there yet. Mr. Bramlett complimented and thanked staff, noting the presentations had improved each time, and that there had been a tremendous amount of great work done very expediently.

## **Public Comment**

John Crouch, with the Hearth Patio & Barbecue Association, asked whether slide number four had speciated values from the old Desert Research Institute, San Jose, 4<sup>th</sup> Street work. Staff responded that it was not based on the Bay Area PM<sub>10</sub> study, commenting that it was made more than ten years ago. Mr. Crouch asked if “we’ve slipped from pretty solid science into asking people over the phone what they have and how much they burn.” Mr. Wee responded that the analysis as a whole was a combination of values measured on a filter, laboratory analysis of those elements, and use of the emission inventory. Slide 5 breaks these down, using results of three thousand respondents’ telephone surveys to get a distribution for the types of devices in the Bay Area, and how many are burning on any particular night. Mr. Crouch felt that asking people what they have, and then making policy on it is a really difficult issue; that it is possible that people weren’t accurate in their responses. Mr. Crouch then asked how the speciated data in slide 8 was adjusted. Mr. Wee replied that “Other Wood Burning” and “Residential Wood Burning” are done by inventory. Mr. Crouch continued with the following observations and comments:

- Downtown San Jose monitors showed the most wood smoke
- This reinforces the concept that there is a lot of transport here.
- Slide 10 back-trajectory reinforces that what started in Concord, got back to Concord, and a no-burn that affected the whole District would not have affected this particular back-trajectory.
- He would be interested to see the case for regional pollutant made in the SIP, as EPA had never signed off on that concept in any PM<sub>10</sub> SIP.

Mr. Broadbent noted that typically the EPA mandates implementation of the rule across the entire non-attainment area. Mr. Crouch replied that it was interesting that in their December letter the California Air Resources Board (CARB) proposed just Marysville and just Yuba City; because they made the argument that it was a very localized event. Mr. Broadbent expressed doubt that the EPA would agree to that.

Mr. Crouch opined that the idea that it is transport—that it is not a neighborhood scale for wood smoke—would affect all of the PM<sub>2.5</sub> SIPs. Mr. Crouch went on to commend Puget Sound Air Agency policies, and comment on differences between the Air District and other Air Districts in California in terms of opacity regulation, fireplaces and gas fireplaces in new building, elevation cut points, and wood-burning devices where gas service is not available; he wanted finally to emphasize that there are differences between the Air Districts’ ordinances, and those differences are appropriate.

Mr. Wee provided the timeline for the regulation rule: presentation of the rule changes, in response to the first set of public comments, to the Board of Directors Stationary Source Committee on Monday, March 17; scheduling the informational meetings for the second week of April through April; final adoption in June.

Mr. Dawid commented that, out of 1.2 woodburning devices, 1.1 are fireplaces, and expressed concern that the Air District is devising regulations for a very small minority of stoves and pellet stoves, when fireplaces are the main contributors to wood smoke. Mr. Wee replied that it is necessary to look at the loading that is occurring to the basin. Knowing it is one third of the PM on peak evenings, it is necessary to hypothesize what would happen if there was 100% compliance with mandatory curtailment. With a voluntary program it is only in the mid-teens/high-teens. As Director of Compliance and Enforcement, Mr. Wee said he had had a long history of enforcing a lot of

stationary source regulation, emphasizing the challenge of getting public habits to change and estimating it would be a multi-year effort. Although the signature is going to decrease a lot over time, there will probably never be 100% compliance.

Jack Colbourn, Director of Administration, introduced new staff member Michael Neward, Administrative Analyst, and noted that Mr. Neward is the person in charge of the Wood Smoke Rebate.

## **AIR DISTRICT OVERVIEW**

### **6. Report of the Executive Officer/APCO**

**Jack P. Broadbent**

*Mr. Broadbent provided an update on pending and planned Air District activities, policies and initiatives.*

Mr. Broadbent opened an overview of the Air District activities, stating that the budget cycle is sound and stable, and that the state's budget crisis would not affect the Air District. Challenges continue to be met, and resources are sufficient for initiatives. At this time it does not make sense to add to staff, however Grant and Accounting staff are needed to administer programs. There have been proposed fee increases for cost recovery of the Air District, TFCA Program at \$43 million per year, and bonds for the Goods Movement Program and infrastructure. Mr. Broadbent stated that out of \$250 million over four years, the Air District will receive a total of \$35 million. CARB-MTC will likely distribute funds totaling \$143 million dollars (without fees, plus 60 million).

Mr. Broadbent reviewed the following Air District activities:

- Community Air Risk Evaluation (CARE) is identifying health risks from diesel particulate matter in six communities, mapping Richmond, Concord, East and West Oakland, and East San Francisco in confluence with the freeway in San Jose—continues to look at stationary source and target dollars in these communities.
- Green Ports Initiative - focusing on ports and implementing measures for:
  - Oakland
  - San Francisco
  - Redwood City
  - Benicia, and
  - Richmond
- Wood Smoke Rule (Regulation 6, Rule 3: Wood-burning Devices) - discussed previously
- Spare The Air Campaign – 2 free transit days this summer, reaching the end of the funding cycle, including free transit
- Climate Protection
  - Support CARB
  - local governments
  - non-professionals
  - Grant Program \$3 million
  - Emissions inventory – look to moving forward on CEQA guidelines
- Greenhouse gas fee on (other sources), CO<sub>2</sub>, and methane – press attention for climate protection, CO<sub>2</sub> fee needs integration instead of duplication

## **OTHER BUSINESS**

### **2. Report of the Chair**

**Dr. Louise Bedsworth**

Nothing was reported.

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

*Chairperson Bedsworth opened the floor for comments.*

Ms. Drennen commented that transportation and planning experts should be included in new full-time employee considerations.

Mr. Broadbent made some clarifying comments on updating CEQA Guidelines.

Ms. Drennen expressed concern about the reduction in free transit this year, and asked if branding items (“schwag”) could be cut in favor of more free transit days. Mr. Broadbent replied that the Air District is changing advertising to more cost-efficient public information, and noted that efforts were being redoubled to obtain private funding.

Dr. Bedsworth commented that a Public Health Officer was needed. Mr. Broadbent responded that a contracted Public Health Officer was budgeted for, to assess the need to engage with the public, and that the budget for this is \$50,000.

Mr. Dawid commented that the Advisory Council did not see the greenhouse gas fee, and inquired about CARB’s AB32 (Global Warming Solutions Act of 2006) domain. Mr. Broadbent responded that the Advisory Council does not see everything, and commented on the advisory role of the Council, and also mentioning that there was no sole domain for the fees. Mr. Bunger responded also that the Air District has authority from before AB32 in the regulation of carbon.

Mr. Bunger and Mr. Broadbent replied to a question from Ms. Weiner, that greenhouse gas (GHG) fees would be 4.2¢ per metric ton. Jean Roggenkamp also responded, saying that the information could be found in the Regulation part of the Air District website.

Mr. Altshuler suggested that free buses to BART might be an effective way to get commuters to use transit on Spare the Air days. Mr. Broadbent commented that this idea might be brought forward for the summer of 2009.

Dr. Kim suggested that University of California at Berkeley has a School of Public Health, and that students could be employed in summer internships.

Dr. Bedsworth spoke briefly about the June 24-27 conference in Portland Oregon, noting that 5 members would attend and follow-up would be done with Mary Ann Goodley, Executive Office Manager, in addition to polling for the next Advisory Council meeting.

Dr. Kim announced that she has accepted a position in Public Health, and therefore she would be stepping down from the Advisory Council in mid-April. Brian Zamora will Chair the Public Health

Committee after Dr. Kim departs. Dr. Kim was thanked by the council members for her participation and contributions to the Advisory Council and the Public Health Committee.

There was brief discussion of various topics: other fees for climate protection—one stationary and one mobile source, a 10¢ total gasoline increase, the need for Executive Committee review of Altshuler resolution, and public accessibility of meetings.

**9. Time and Place of Next Meeting:** 9:00 a.m., Thursday, May 15, 2008, 939 Ellis Street, San Francisco, CA 94109.

**10. Adjournment:** The meeting adjourned at 12:43 p.m.

Jean Marie Mink  
Temporary Executive Secretary



**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Memorandum

To: Chairperson Hill and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 3, 2008

Re: Production System Project Update

RECOMMENDED ACTION:

Receive and File.

DISCUSSION:

Staff will present the current status for this multi-year project, and a description of the next milestones. In December of 2006 staff presented a plan for implementation of the new production system and replacement of IRIS and Databank. At that time, staff indicated that execution of the plan would be accompanied by detailed reports on the status of actual costs as compared to projected costs, and by detailed reports on the status of actual accomplishments as compared to projected accomplishments. The last update was presented in December of 2007.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No impact.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Jerry Hill and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: April 7, 2008

Re: Public Hearing to Consider Testimony on Proposed Amendments to  
District Regulation 3: Fees

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RECOMMENDED ACTION:

No action is necessary at this time. A public hearing will be set for May 21, 2008 to consider adoption of the proposed fee amendments and approval of filing of a Notice of Exemption from the California Environmental Quality Act.

BACKGROUND

State law authorizes the District to assess fees to recover the reasonable costs of implementing and enforcing programs related to stationary sources of air pollution. The District has established, and regularly updates, its fee regulation (District Regulation 3: Fees) under these authorities.

Staff has prepared proposed amendments to District Regulation 3 for Fiscal Year Ending (FYE) 2009 (i.e., July 1, 2008 to June 30, 2009) that would increase revenue to enable the District to address increasing regulatory program activity costs, and continue to move toward more complete cost recovery. A recently completed 2008 Cost Recovery Study indicates that a significant cost recovery gap exists. For the most recently completed fiscal year, FYE 2007, fee revenue covered 58 percent of direct and indirect program costs, leaving a gap of \$16.5 million to be filled by county revenue derived from property taxes. If the proposed fee amendments are adopted, District staff estimates that the cost recovery gap would be reduced to \$14.4 million (65 percent of costs) in FYE 2009.

PROPOSED FEE AMENDMENTS

Staff's fee proposal for FYE 2009 features a new Greenhouse Gas (GHG) Fee Schedule. The GHG Fee Schedule would recover the costs of the District's Climate Protection Program activities related to stationary sources of air pollution (approximately \$1.1 million for FYE 2009). The new GHG fee would be assessed on an annual basis to permitted facilities with GHG emissions at a rate of \$0.044 per metric ton of carbon dioxide equivalent emissions. Emissions of biogenic carbon dioxide, which are generally not associated with causing climate change, would not be subject to GHG fees.

Two new equipment registration fees are proposed as follows: (1) a registration fee for non-halogenated dry cleaning machines that are exempt from District permit requirements, but that are required to register under District Regulation 8, Rule 17, and (2) a registration fee that would apply to those diesel engines that are exempt from District permit requirements, but that need to be registered with the District in order to comply with CARB regulations.

Staff's fee proposal includes percentage increases for most existing fees. The increase for an individual fee schedule would be based on the magnitude of the cost recovery gap for that schedule as indicated in the 2008 Cost Recovery Study. Fee schedules with cost recovery gaps would be increased by 3, 6, 9, or 15 percent. Fee schedules without cost recovery gaps would not be increased. Fees that are administrative in nature would be increased by 6 percent.

The attached draft Staff Report contains additional details regarding the proposed amendments to Regulation 3 including the complete text of the proposed changes prepared in strikethrough (deletion of existing text) and underline (new text) format. Responses to comments received on the staff proposal are also provided.

Under Health and Safety Code section 41512.5, the adoption or revision of fees for non-permitted sources requires two public hearings that are held at least 30 days apart from one another. The first public hearing, at which the Board will accept testimony on the fee proposal, has been set for April 16, 2008. The second public hearing, at which staff requests the Board consider adoption of the proposed fee amendments, will be set for May 21, 2008. The fee amendments, if adopted, would be made effective on July 1, 2008.

#### BUDGET CONSIDERATION/FINANCIAL IMPACTS

The proposed fee amendments would increase fee revenue for FYE 2009 by approximately \$3.4 million from projected revenue levels in the current fiscal year budget, representing an increase of 13.9 percent (10.7 percent, on an inflation-adjusted basis). With these increased revenues, the District has prepared a balanced budget for FYE 2009 that does not require transfers from the Undesignated Reserve Fund.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Brian Bateman  
Reviewed by: Jeffrey Mckay



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

# **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

DRAFT

APRIL 7, 2008

**Engineering Division  
Bay Area Air Quality Management District**

## **1. EXECUTIVE SUMMARY**

District staff has prepared proposed amendments to District Regulation 3: Fees, for Fiscal Year Ending (FYE) 2009 (i.e., July 1, 2008 to June 30, 2009) that would increase revenue to enable the District to address increasing regulatory program activity costs, and continue to move toward more complete cost recovery. A recently completed 2008 Cost Recovery Study indicates that a significant cost recovery gap exists. For the most recently completed fiscal year (FYE 2007), fee revenue covered 58 percent of direct and indirect program costs, leaving a gap of \$16.5 million to be filled with county revenue derived from property taxes.

The proposed amendments would increase fee revenue in FYE 2009 by approximately \$3.4 million from projected revenue levels in the FYE 2008 budget, representing an increase of 13.9 percent. For reference, the most recent annual increase in the Consumer Price Index (CPI) for the Bay Area (i.e., from Calendar Year 2006 to 2007) was 3.2 percent.

District staff is proposing amendments to existing fee schedules that are based on the magnitude of the cost recovery gap identified in the 2008 Cost Recovery Study for each schedule. Fee schedules with the largest cost recovery gaps would be increased by 15 percent. Fee schedules with less significant cost recovery gaps would be increased by 9 percent, 6 percent, or 3 percent. Fee schedules with no cost recovery gaps would not be increased. Fees that are administrative in nature would be increased by 6 percent.

A new Greenhouse Gas (GHG) fee schedule is also proposed. The revenue from this fee schedule (\$1.1 million in FYE 2009) would help recover the costs of the District's Climate Protection Program activities related to stationary sources of air pollution. The new GHG fee would be assessed on an annual basis to permitted facilities with GHG emissions at a rate of \$0.044 per metric ton of carbon dioxide (CO<sub>2</sub>) equivalent emissions. Emissions of biogenic carbon dioxide, which are generally not associated with causing climate change, would not be subject to GHG fees.

Two new equipment registration fees are also proposed as follows: (1) a registration fee for non-halogenated dry cleaning machines that are exempt from District permit requirements, but that are required to register under District Regulation 8, Rule 17, and (2) a registration fee that would apply to those diesel engines that are exempt from District permit requirements, but that need to be registered with the District in order to comply with California Air Resources Board (CARB) regulations.

## **2. BACKGROUND**

State law authorizes the District to assess fees to generate revenue to recover the cost of District air pollution programs (i.e., the District's full direct and indirect expenditures for personnel, services and supplies, and capital outlay, related to implementing and enforcing air quality programs and regulations affecting stationary sources of air pollution). The largest portion of District fees is collected under provisions that allow the

District to impose permit fees sufficient to recover the full costs of programs related to permitted sources. The District is also authorized to assess fees for: (1) area-wide or indirect sources of emissions which are regulated, but for which permits are not issued by the District, (2) sources subject to the requirements of the State Air Toxics Hot Spots Program (Assembly Bill [AB] 2588) and, (3) activities related to the District's Hearing Board involving variances or appeals from District decisions on the issuance of permits.

The District has established, and regularly updates, a fee regulation under these authorities (District Regulation 3: Fees). Currently, about 45 percent of the District's general fund operating budget is derived from fees imposed in accordance with this regulation.

From time to time, the District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the costs of related program activities. In 1999, a comprehensive review of the District's fee structure and revenues was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs; February 16, 1999*). This 1999 Cost Recovery Study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, fund balances) had consistently been used to close this cost recovery gap.

The District Board of Directors adopted an across-the-board fee increase of 15 percent, the maximum allowed by State law, for FYE 2000 as a step toward more complete cost recovery. In each of the next five years, the District adjusted fees only to account for inflation (for FYE 2005, the District also approved further increases in Title V fees, and a new processing fee for renewals of permits to operate).

In 2004, the District Board of Directors approved funding for an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality Management District Cost Recovery Study, Final Report; March 30, 2005*). This 2005 Cost Recovery Study indicated that a significant cost recovery gap continued to exist. For the most recent year analyzed in that study, FYE 2004, fee revenue covered less than 60 percent of direct and indirect program activity costs.

In the three years following the completion of the 2005 Cost Recovery Study (i.e., FYE 2006, FYE 2007, and FYE 2008), the District adopted fee amendments that increased overall projected fee revenue by an average of about seven percent per year. In order to address fee equity issues, the various fees were not all increased in a uniform manner. Rather, individual fee schedules were amended based on the magnitude of the cost recovery gap, with the fee schedules with the more significant cost recovery gaps receiving more significant fee increases.

District staff has recently completed an updated analysis of cost recovery for FYE 2007 (*Bay Area Air Quality Management District 2008 Cost Recovery Study, March 2008*). This 2008 Cost Recovery Study indicates that the cost recovery gap was \$16.5 in FYE 2007; fee revenue covered 58 percent of program costs.

For FYE 2009, District staff has developed proposed amendments to Regulation 3 using an approach that is similar to what was used over the past three years, but that is more aggressive in terms of its impact on reducing the cost recovery gap. On an overall basis, it is estimated that the amendments would increase fee revenue by \$3.4 million in FYE 2009 from projected revenue levels in the current fiscal year budget, representing an increase of about 13.9 percent. On an inflation-adjusted basis, the increase is 10.7 percent (the increase in the annual CPI for urban wage earners for the California Bay Area from calendar year 2006 to 2007, as reported by the California Department of Industrial Relations, Division on Labor Statistics and Research was 3.2 percent). It is estimated that the increased revenue would reduce the cost recovery gap to about \$14.4 million in FYE 2009; fee revenue would cover about 65 percent of program costs.

Projected fee revenue for FYE 2009 is provided in Table 1, based on District staff's proposed amendments to Regulation 3. These figures are approximations, as actual fee revenue depends on a variety of factors, some of which are difficult to predict (e.g., year-to-year fluctuations in industrial activities).

**Table 1. Projected Fee Revenue for FYE 2009**

<b>Permit Fees</b>	
New & Modified Permit Fees, Permit to Operate Renewal Fees, Title V Fees	\$23,981,000
Greenhouse Gas Fees	\$1,116,000
<b>Other Fees</b>	
AB 2588 Fees (excluding State pass-through)	\$555,000
Asbestos, and Soil Excavation Notification Fees	\$1,928,000
Registration Fees	\$174,000
Hearing Board Fees	\$28,000
<b>Total</b>	<b>\$27,782,000</b>

### **3. PROPOSED FEE AMENDMENTS FOR FYE 2009**

#### **3.1 OVERVIEW OF PROPOSED AMENDMENTS**

The District's fee proposal for FYE 2009 includes percentage increases for most existing fees. The proposed increase for an individual fee schedule is based on the magnitude of the cost recovery gap for that schedule, as indicated in the 2008 Cost Recovery Study. In order to minimize the effects of year-to-year variations in program activities, three-year average cost recovery figures (covering the period July 1, 2004 to June 30, 2007) are used for this purpose. The proposed amendments for existing fee schedules are as follows:

1. The following fee schedules, which the 2008 Cost Recovery Study indicates have the largest revenue gaps (i.e., fee revenue representing less than 40 percent of costs), would be increased by 15 percent:

- Schedule A: Hearing Board
- Schedule D: Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals
- Schedule E: Solvent Evaporating Sources
- Schedule K: Solid Waste Disposal Sites
- Schedule P: Major Facility Review Fees

2. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 41 to 70 percent of costs would be increased by 9 percent:

- Schedule F: Miscellaneous Sources
- Schedule G-1: Miscellaneous Sources
- Schedule L: Asbestos Operations
- Schedule I: Dry Cleaners

Note that the 2008 Cost Recovery Study indicated that fee revenue from Schedule I: Dry Cleaners (which applies to facilities using halogenated solvents) is less than 40 percent of program costs, which would appear to justify a higher percentage fee increase. Staff is also proposing, however, a new registration fee for non-halogenated dry cleaners, most of which are currently exempt from permit requirements and pay no District fees. Considering that additional revenue will be derived from dry cleaners with this new registration fee, staff believes that a 9 percent fee increase is appropriate for Schedule I.

3. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 71 to 85 percent of costs would be increased by 6 percent:

- Schedule G-2: Miscellaneous Sources
- Schedule H: Semiconductor and Related Operations
- Schedule M: Major Stationary Source Fees



Note that the District cannot directly evaluate Schedule M (which is an emissions-based fee that applies to various types of sources) for cost recovery, but rather distributes the revenue from Schedule M into the appropriate source-specific permit fee schedules when evaluating cost recovery for those schedules. A six percent increase for Schedule M is considered appropriate because revenue from this schedule has been reduced (on an inflation-adjusted basis) due to declining emissions, without a commensurate reduction in District activity costs.

4. The following fee schedules, which the 2008 Cost Recovery Study indicates result in fee revenue covering 86 to nearly 100 percent of costs would be increased by 3 percent:

- Schedule B: Combustion of Fuels
- Schedule N: Toxic Inventory Fees
- Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks
- Schedule S: Naturally Occurring Asbestos Operations

Note that the fees for Schedule S were initially adopted in FYE 2008 based on an analysis of District costs for regulatory activities for affected sources in this category. The proposed 3 percent increase in the fees for this schedule represents an appropriate inflation adjustment for FYE 2009.

5. The following fee schedules, which the 2008 Cost Recovery Study indicates have no revenue gaps, would not be increased:

- Schedule C: Stationary Containers for the Storage of Organic Liquids
- Schedule G-3: Miscellaneous Sources
- Schedule G-4: Miscellaneous Sources
- Schedule G-5: Miscellaneous Sources
- Schedule R: Equipment Registration Fees

Note that District staff began specifically tracking activity data for Schedule G-5 (for refinery flares) in FYE 2008 after that schedule was initially adopted. Due to a lack of at least one year of activity data for this schedule, a cost recovery analysis could not be completed. Staff will evaluate the appropriateness of fee increases for Schedule G-5 for FYE 2010, when additional activity data are available.

The fees for Schedule R were amended on December 7, 2007, along with the adoption of Regulation 6-2: Commercial Cooking Equipment. Due to the recent effective date of these amendments, no increases in registration fees for charbroilers under Schedule R are proposed for FYE 2009.

Staff is also proposing to increase the following administrative fees (that are not associated with fee schedules) by 6 percent:

Section 3-302: New and modified source filing fee

- Section 3-309: Duplicate permit fee
- Section 3-311: Banking filing fee and withdrawal fee
- Section 3-312: Regulation 2, Rule 9 Alternative Compliance Plan fee
- Section 3-327: Permit to Operate renewal processing fee
- Section 3-329: Fee for Risk Screening (base fee for each application specified in the applicable fee schedule)

In addition to these percentage increases in existing fee schedules and administrative fees, staff is proposing: (1) two new equipment registration fees to be added to Schedule R, and (2) a new Schedule T: Greenhouse Gas Fees. Additional details regarding the proposed amendments are provided in the following section.

### **3.2 PROPOSED RULE AMENDMENTS**

The complete text of the proposed changes to District Regulation 3: Fees, has been prepared in strikethrough (deletion of existing text) and underline (new text) format, and is included in Appendix A. A detailed description of the proposed amendments follows.

- Section 3-101: Description

The term “experimental exemption” has been removed from this section because there is no longer a provision for experimental exemptions in District regulations. The term “equipment registrations” has been added to this section because provisions for assessing fees for equipment registrations have been recently established.

- Section 3-103: Exemption, Abatement Devices

Section 3-103 specifies that emissions from abatement devices, including secondary emissions, shall be included when determining fees under the emissions-based Fee Schedules M, N, and P. The new greenhouse gas emissions-based Schedule T has been added to this section. Schedule T fees will apply only to emissions from permitted sources and abatement devices controlling permitted sources.

- Section 3-107: Exemption, Sources Exempt from Permit Requirements

No changes in regulatory language are proposed for Section 3-107. The new Schedule T will not be added to this section, and Schedule T will further clarify that GHG fees will apply to permitted, rather than exempt, sources at facilities.

- Section 3-240: Biogenic Carbon Dioxide

A definition of the term “biogenic carbon dioxide” has been added. This term is used in the new Schedule T.

- Section 3-302: Fees for New and Modified Sources

The proposed amendment for Section 3-302 is a 6 percent increase in the filing fee for

permit applications (rounded to the nearest whole dollar), from \$300 to \$318. Section 3-302.5 has also been amended to clarify that minor modifications to permitted sources subject to Schedule G-5 will be assessed fees under Schedule G-2. Schedule G-5 was adopted last year and covers refinery flares that were formerly covered under Schedule G-3.

- Section 3-309: Duplicate Permit

The proposed amendment for Section 3-309 is a 6 percent increase in the fee for a duplicate Permit to Operate (rounded to the nearest whole dollar), from \$61 to \$65 per permit.

- Section 3-311: Banking

The proposed amendment for Section 3-311 is a 6 percent increase in the filing fee for banking applications (rounded to the nearest whole dollar), from \$300 to \$318.

- Section 3-312: Emission Caps and Alternative Compliance Plans

No change in regulatory language is proposed for Section 3-312.1, which requires an additional annual fee equal to 15 percent of the facility's Permit to Operate fee for facilities that elect to use an Alternative Compliance Plan (ACP) for compliance with Regulation 8, or Regulation 2, Rule 2. These ACP fees would increase along with any increase in a facility's Permit to Operate renewal fees for sources in Schedules B, D, E, F, G-1, G-2, H, K, and I.

The proposed amendment for Section 3-312.2 is a 6 percent increase in the annual fee (rounded to the nearest whole dollar) for a facility that elects to use an Alternative Compliance Plan (ACP) contained in Regulation 2, Rule 9: Interchangeable Emission Reduction Credits. The fee for each source included in the ACP would be increased from \$757 to \$802, and the maximum fee would be increased from \$7,573 to \$8,027.

- Section 3-320: Toxic Inventory Fees

The maximum toxic inventory fee for a small business specified in Section 3-320.1 would be increased by 6 percent (rounded to the nearest whole dollar) from \$6,892 to \$7,306.

- Section 3-327: Permit to Operate, Renewal Fees

Section 3-327 has been amended to indicate that permit renewal invoices shall include any applicable GHG fees under the new Schedule T. The processing fees for a facility for renewal of Permits to Operate specified in Sections 3-327.1 through 3-327.6 have also been increased by 6 percent (rounded to the nearest whole dollar).

- Section 3-329: Fee for Risk Screening

No change in regulatory language is proposed for Section 3-329, Fee for Risk Screening. Increases in risk screening fees are instead specified in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K. For each applicable fee schedule, the base fee for each application that requires a Health Risk Screening Analysis would be increased by 6 percent. The portion of the risk screening fee that is based on the type of source involved would be increased by 3 percent for sources covered by Schedule B; by 6 percent for sources covered by Schedules G-2 and H; by 9 percent for sources covered by Schedules F, G-1, and I; and by 15 percent for sources covered by Schedules D, E, and K. There would be no increase (except for the increase in the base fee) for sources covered by Schedules C, G-3, G-4, and G-5.

- Section 3-333: Major Facility Review (MFR) and Synthetic Minor Application Fees

A new Section 3-333 has been added to clarify that applications submitted for various types of MFR permits, and for Synthetic Minor Operating Permits, are subject to fees specified under Schedule P. This provides consistency with the manner in which fees for applications for authorities to construct and permits to operate are specified in Section 3-302.

- Section 3-334: Greenhouse Gas Fees

A new Section 3-334 has been added to indicate that a facility with GHG emissions from permitted sources shall pay a fee under the new Schedule T.

- Fee Schedules

The fees contained in each fee schedule in Regulation 3 would be increased by either 3 percent, 6 percent, 9 percent, or 15 percent (rounded to the nearest whole dollar, in most cases) as summarized in Section 3.1 of this report, with the exception of the following fee schedules, which would have no increase in fees: Schedule C: Stationary Containers for the Storage of Organic Liquids, Schedule G3: Miscellaneous Sources, Schedule G4: Miscellaneous Sources, and Schedule G5: Miscellaneous Sources. Additional proposed changes to fee schedules are as follows.

### Schedule R: Equipment Registration Fees

Two new equipment registration fees are proposed for Schedule R. The proposed fees were based on an assessment of the District's costs of implementing and enforcing the applicable regulatory requirements for the affected sources (e.g., anticipated inspection frequency, inspection duration, preparation of reports, etc.). Facilities that have previously provided registration information to the District for the affected sources would not be subject to the initial registration fee, but would be required to pay annual renewal fees.

Registration fees have been added for non-halogenated dry cleaning machines that are

subject to District Regulation 8, Rule 17. District staff will be proposing amendments to Regulation 8, Rule 17 in early FYE 2009; including the requirement for certain non-permitted dry cleaning machines to be registered. The proposed fee is \$180 for an initial registration, and \$125 annually thereafter for renewal of the registration.

A new fee has also been added for the registration of non-permitted diesel engines. These fees would apply to those diesel engines that are exempt from District permit requirements, but that otherwise need to be registered with the District in order to comply with the requirements of a State Airborne Toxic Control Measure (ATCM) adopted by CARB. In particular, CARB ATCM amendments effective October 18, 2007 require operators of certain agricultural diesel engines to register this equipment with the local air district by March 1, 2008. The proposed fee is \$120 for an initial registration, and \$80 annually thereafter for renewal of the registration. Sources that have been registered in advance of the effective date of this fee would not be subject to the initial registration fee.

#### Schedule T: Greenhouse Gas Fees

A new Schedule T: Greenhouse Gas Fees is proposed. The purpose of the new schedule is to recover the District's costs of its Climate Protection Program activities related to stationary sources. The fees would be assessed to sources required to obtain a District Permit to Operate (and abatement devices on permitted sources) in proportion to the annual emissions of Greenhouse Gases (GHGs) expressed on a carbon dioxide equivalent (CDE) basis, excluding any emitted biogenic carbon dioxide. The GHG emissions would be determined by the District based on data reported to the District for the most recent 12 months prior to billing. The fee would be assessed at the time of a facility's Permit to Operate renewal, and added to the invoice of other applicable fees under Regulation 3. Additional background and details on the basis for the proposed Schedule T follow.

#### 1. Background

On June 1, 2005, the District's 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. A central element of the District's Climate Protection Program is the integration of climate protection activities into existing District programs. The District is continually seeking ways to integrate climate protection into current District functions, including grant programs, CEQA commenting, regulations, inventory development, and outreach. In addition, the District's Climate Protection Program emphasizes collaboration with ongoing climate protection efforts at the local and State level, public education and outreach, and technical assistance to cities and counties. To date, the District's costs of implementing the Climate Protection Program have been covered from the District's General Fund.

In California, air districts have the primary responsibility for the control of air pollution from non-vehicular stationary sources (California Health and Safety [H&S] Code section

40000). Air districts are authorized to establish a permit system for stationary sources that emit air contaminants (H&S Code Section 42300). The term “air contaminant” (or “air pollutant”) is defined very broadly, and specifically includes discharges that are gases and/or that contain carbon (H&S Code Section 39013). Greenhouse gases clearly meet this definition. Among other things, air districts have the authority to collect information from stationary sources for the purpose of determining emissions, which is fundamental to any air quality program. Air districts have the authority to assess fees to cover the costs of their programs related to permitted stationary sources that are not otherwise funded (H&S Code Section 42311). District staff is proposing the new Schedule T in an effort to provide more complete cost recovery for its stationary source programs.

Through the Global Warming Solutions Act of 2006, AB 32, CARB has been tasked with developing regulations for GHG emissions in California. It is important to note, however, that AB 32 specifically does not limit the existing authority of any air district (H&S Code Section 38594). Although CARB has the authority to adopt a fee schedule that applies to sources of GHG emissions for the purpose of recovering costs of carrying out AB 32 (H&S Code 38597), no such fees have been proposed to date. District staff will reevaluate the fees in Schedule T if and when CARB provides a source of funding to air districts for AB 32 related activities.

## 2. Basis for Schedule T

The proposed Schedule T is an emissions-based fee schedule. The fee rate was determined based on an assessment of program activity costs and GHG emissions from permitted sources. Additional details follow.

### a. Program Activity Costs

District staff has completed a detailed accounting of Climate Protection Program activity costs that can be attributed to stationary sources of emissions and recovered under the proposed Schedule T. Figures were compiled for 2007, and projections were made for 2008. The 2008 cost figures are considered to be a reasonable estimate of District costs for FYE 2009, and were used to establish a fee rate for Schedule T.

Personnel costs were based on staff hours spent on qualifying activities in various position classifications. Direct personnel costs were determined as the product of hourly salary rate, hours spent, and a benefits factor. Indirect costs were determined as a percentage of direct personnel costs based on a cost recovery analysis previously completed for the District. Additional costs of services and supplies not included as direct or indirect personnel costs were also determined. This includes costs of contractor services, the largest component of which for FYE 2009 is for a software development project to coordinate State/District GHG emissions inventory reporting.

Some of the District’s Climate Protection Program activities are general in nature and cannot be clearly attributed only to stationary sources of emissions. Many of these

activities are related to tracking and participating in the developing AB 32 program, including the Scoping Plan, which is required to be adopted by January 1, 2009. One third of the costs of these miscellaneous activities have been attributed to Schedule T based on inventory apportionment (approximately one third of the total Bay Area GHG emissions inventory are from permitted stationary sources).

Due to the rapid development and substantial scope of this new program, Climate Protection Program activities in FYE 2009 may well expand beyond current District staff estimates. Appropriate timekeeping procedures have been established so that Climate Protection Program activities related to permitted sources can be tracked for use in considering future amendments to Schedule T.

The costs used to determine a fee rate for Schedule T are summarized in Table 2.

**Table 2: District Stationary Source Climate Protection Program Activity Costs**

<b>Program Activity</b>	<b>Annual Cost</b>
<b><i>Personnel</i></b>	
Emissions Inventory	\$193,500
Studies/Research	\$115,900
District Regulatory Measures	\$70,100
CARB Regulatory Measures	\$58,900
California Environmental Quality Act	\$68,300
Miscellaneous	\$107,900
<b>Total Direct Personnel Costs</b>	<b>\$614,600</b>
<b>Indirect Costs</b>	<b>\$239,800</b>
<b><i>Services and Supplies</i></b>	
Contracts	\$212,000
Miscellaneous	\$50,000
<b>Total for Services and Supplies</b>	<b>\$262,000</b>
<b>GRAND TOTAL</b>	<b>\$1,116,400</b>

## Emissions Inventory

An emissions inventory is a fundamental technical component of any air quality program. The District has developed an integrated emissions inventory system for permitted sources that makes use of common information needed to establish and update criteria, toxics, and GHG emissions on an ongoing basis. The emission inventory costs attributed to Schedule T represent the District's incremental costs of maintaining and updating the GHG emissions inventory for permitted sources.

Under the requirements of AB 32, CARB is establishing a mandatory annual emissions reporting system for the more significant sources of GHGs in California. It is expected that data will begin to be reported into the CARB system in 2009. The District intends on developing software that will make use of data reported by facilities into the CARB GHG emissions reporting system. This software is intended to minimize duplication of efforts and promote consistency in emissions inventory information between systems.

## Studies and Research

The District is involved in conducting studies to identify and evaluate potential GHG emission control measures for application to stationary sources in the Bay Area. A Phase I GHG technology study was completed in 2007. The study identified the industries and source categories that most significantly contribute to GHG emissions and potential mitigation options for controlling those emissions. The study qualitatively evaluated the effectiveness, costs, and impacts of each of the most promising options. The District is currently developing a follow-up Phase II GHG technology study that focuses on providing more detailed information regarding GHG emission reduction opportunities for landfills and certain combustion sources. Additional studies will be completed as needed as the Climate Protection Program continues to develop.

Another area of study that the District has been involved in is the impact that climate change will have on ozone levels in the Bay Area. Preliminary regional photochemical modeling studies have analyzed the effects of increased ambient temperatures on peak summertime ozone concentrations. Additional related technical studies are planned.

## Rule Development

The District is now addressing GHG issues in all its rule development projects. In FYE 2007, GHG issues were considered in amended standards for stationary gas turbines covered under Rule 9-9. In FYE 2008, GHG issues were addressed in amendments to Rule 9-6 for water heaters and small boilers, and in amendments to Rule 9-8 for stationary internal combustion engines. The District has recently issued draft amendments to Rule 9-7, which covers industrial, institutional, and commercial boilers, steam generators, and process heaters. The draft amendments to Rule 9-7 include new requirements for equipment inspection and tune-up, insulation, and maximum stack gas temperatures that are intended to reduce emissions of GHGs and other air pollutants.



A significant portion of the District's Climate Protection Program activities have been devoted to providing input and support to CARB in their development of the AB 32 program. The District expects that these AB 32 activities will expand in FYE 2009, as the January 1, 2010 deadline for adoption of the many discrete early action GHG emission reduction measures approaches. District staff already participates in many statewide AB 32 workgroups, and these activities will expand as additional workgroups are formed.

## CEQA

Public agencies in California are under increasing pressure to address GHG issues for proposed projects under the California Environmental Quality Act (CEQA). Air districts have traditionally provided guidance to local Lead Agencies on evaluating and addressing air pollution impacts from projects subject to CEQA. District staff, in collaboration with the California Air Pollution Control Officers Association, recently published a white paper entitled CEQA & Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act. This document serves as a resource for public agencies as they establish procedures for reviewing GHG emissions from projects under CEQA.

Under CEQA, the District is a public agency that acts as lead agency for its own projects, such as the adoption of rules, regulations or plans. Typically, the CEQA lead agency for projects that apply for District permits is the agency with general governmental powers, such as a city or a county. For these projects, the District acts as a responsible agency under CEQA. The CEQA costs attributed to Schedule T are those that are required to address GHG issues by the District as a responsible agency.

The District occasionally acts as a lead agency for projects that file for District permits that have not previously undergone a CEQA analysis and that are not required to do so by an agency with general governmental powers. CEQA provides lead agencies the authority to recover costs, and under Section 3-315 of the District's fee regulation the District may recover from permit applicants the costs of environmental documentation prepared to meet CEQA requirements. These lead agency activities have not been attributed to Schedule T due to this existing funding mechanism. CEQA does not provide a similar funding mechanism for responsible agency activities.

### b. GHG Emissions from Permitted Sources

In 2006, the District published a Bay Area Regional GHG Emissions Inventory for the base year 2002. For permitted "point sources", the inventory was compiled using a "bottom-up" approach, based on detailed process and materials usage information provided by Bay Area facilities. The point source GHG emissions inventory has recently been updated to reflect 2005 activity data, and refinements in assumptions regarding the composition of certain fuels. This 2005 inventory has been used to determine the proposed fee rate for Schedule T.

The District is in the process of incorporating GHG emission calculations into the District’s Plant Data System, which is also used to determine criteria and toxics emissions from permitted sources based on the most recently reported activity data. GHG fee invoicing for Schedule T will be based on GHG emissions calculated using the Plant Data System.

The District’s initial draft GHG Fee Schedule was based on total GHG emissions from permitted sources. After considering public comments, the District has decided to exclude “biogenic carbon dioxide” emissions from GHG fees. A summary of the GHG emissions used to establish the fee rate in Schedule T is provided in Table 3.

**Table 3: 2005 Bay Area Point Source GHG Emissions**

	Metric tons per year (CDE)	Percent of Total
Total GHG Emissions	26,512,951	100
Biogenic CO <sub>2</sub> Emissions	1,102,220	4
Total Non-Biogenic GHG Emissions	25,410,731	96

Biogenic CO<sub>2</sub> is proposed to be defined in Section 3-240 as follows:

Biogenic Carbon Dioxide: Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide contains carbon (which can be released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.

Approximately 90 District-permitted facilities currently have biogenic CO<sub>2</sub> emissions. Landfills and wastewater treatment plants are by far the largest source categories of biogenic CO<sub>2</sub> emissions in the point source inventory. Smaller source categories with biogenic CO<sub>2</sub> emissions include various bio-fuel combustion sources (e.g., engines using biodiesel, boilers using wood-waste), and crematories.

Biogenic CO<sub>2</sub> emissions are being excluded from fees because these emissions are the result of materials in the biological/physical carbon cycle, rather than the geological carbon cycle. It is the use of materials in the geological carbon cycle, such as fossil fuels, that is believed to be the primary cause of climate change. Further details regarding the biological/physical and geological carbon cycles and climate change follow.

## Carbon Cycles and Climate Change

Carbon moves through the land, ocean, atmosphere, and the Earth's interior in a major biogeochemical cycle. The global carbon cycle can be divided into two categories: the short-term, or biological/physical carbon cycle, which operates over periods of days to hundreds of years; and the long-term, or geological carbon cycle, which operates over periods of millions of years.

The biological/physical carbon cycle involves the absorption, conversion, and respiration of carbon by living organisms. In this short-term carbon cycle, the carbon dioxide that is absorbed from the atmosphere by plants through photosynthesis can take several paths before reentering the atmosphere as CO<sub>2</sub>. When a plant dies, it may be broken down by microorganisms that feed on the dead organic matter. As the microorganisms consume the plant matter, they release some of the plant's carbon into the atmosphere in the form of CO<sub>2</sub>, although some carbon is destined for longer-term storage in trunks and branches of trees and in the bodies of plant-eating animals or carnivorous animals that eat plant-eating animals. These animals then return more of the carbon to the atmosphere as CO<sub>2</sub> through respiration, although some carbon will be stored within their bodies until they die and decompose in the soil.

The geological carbon cycle involves the removal of carbon from the biological/physical cycle into the various layers of the Earth. Organic material may be buried under heavy layers of sediment and chemically changed under high levels of heat and pressure into components of rock, such as limestone and shale. Solid, liquid, and gaseous hydrocarbon fossil fuels such as coal, oil, and natural gas may be produced from further chemical transformations. These carbon-bearing materials may be trapped deep below the Earth's surface for hundreds of millions of years prior to being emitted back into the atmosphere as CO<sub>2</sub> as a result of natural geological events, such as volcanic eruptions.

Human beings tap into the geological carbon cycle by extracting fossil fuels, such as coal, oil and natural gas, or by mining carbon-bearing rocks, such as limestone and shale. When fossil fuels are burned, or carbon-bearing rock is subjected to high temperatures (such as in cement manufacturing), CO<sub>2</sub> gas is emitted into the atmosphere. Since the Industrial Revolution began, CO<sub>2</sub> levels in the atmosphere have increased measurably, mostly as a result of human use of fossil fuels. The use of fossil fuels has resulted in a large imbalance in the long-term carbon cycle, because fossil fuel reserves are being depleted much faster than new ones are being formed. This is generally believed to be the primary cause of climate change.

### c. Fee Rate

The fee rate for Schedule T was calculated as follows:

$$\text{Fee Rate} = \frac{\text{Total Annual Costs to be Recovered (\$ per year)}}{\text{Total Non-Biogenic GHG Emissions (Metric tons per year CDE)}}$$

$$\text{Fee Rate} = \frac{\$1,116,400 \text{ per year}}{25,410,731 \text{ Metric tons per year CDE}}$$

$$\text{Fee Rate} = \$0.044 / \text{Metric ton CDE}$$

No small-source exemption is proposed; all facilities with GHG emissions, excluding biogenic CO<sub>2</sub>, would be assessed a fee under Schedule T. The billing for Schedule T fees will be done along with the Permit to Operate renewals; a separate invoice for Schedule T fees will not be sent.

d. List of Compounds and GWP Values

The District's initial draft GHG Fee Schedule included a list of GHG compounds and Global Warming Potential (GWP) values that were taken from the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report, "Climate Change 2007". After considering public comments received, the District has decided to use a shorter compound list with GWP values based on the IPCC Second Assessment Report, "Climate Change 1995". The compound list includes CO<sub>2</sub>, methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), various hydrofluorocarbons (HFCs), and various perfluorocarbons (PFCs). These compounds, often referred to as the "six Kyoto gases", are used in GHG inventories established under the Kyoto Protocol and under AB 32.

The use of the six Kyoto gases and 1995 IPCC GWP values will provide greater consistency with other GHG programs. Updates to the list of GHG compounds, and GWP values, may be considered in future amendments to Schedule T.

Carbon dioxide equivalent emissions will be determined by multiplying the annual emissions of each GHG listed in Schedule T (in units of metric tons per year), excluding biogenic CO<sub>2</sub>, by the applicable GWP. The fee for a facility will be based on the combined total CDE emissions for the facility. Only emissions from permitted sources, and any abatement devices on permitted sources that may generate GHG emissions, will be included in determining the facility total CDE emissions.

e. Facilities Affected by Schedule T

Over 2500 District-permitted facilities have some level of GHG emissions and would be subject to fees under Schedule T. Most of these facilities have relatively low GHG emissions levels (e.g., facilities with only an emergency backup generator), and would have annual GHG fees under \$1. About 850 facilities would have annual GHG fees of \$1 or more; about 250 facilities would have annual GHG fees in excess of \$100; 14 facilities would have annual fees in excess of \$10,000; and 7 facilities would have annual GHG fees in excess of \$50,000 (i.e., the five Bay Area petroleum refineries, and the two largest Bay Area power plants). As would be expected, the largest industrial facilities with the highest GHG emissions would have the highest GHG fees.

As a category, petroleum refineries emit just over one-half of the Bay Area point source GHG emissions, and would therefore pay about one-half of the total GHG fees under Schedule T. Various types of power plants would collectively pay about one-third of the total GHG fees, although the fee for specific power plants would vary significantly, from tens of dollars for small distributed-generation facilities, to about \$87,000 for the largest central power plant.

#### **4. PROJECTED FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES**

With the proposed amendments, the District's total projected fee revenue for FYE 2009 is \$27.8 million. The 2008 Cost Recovery Study indicated that, for the last complete fiscal year analyzed (FYE 2007), the District's total regulatory program activity costs were \$39.4 million.

#### **5. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES**

State law authorizes air districts to adopt fee schedules to cover the costs of various air pollution programs. H&S Code section 42311(a) provides authority for an air district to collect permit fees to cover the costs of air district programs related to permitted stationary sources. H&S Code section 42311(f) further authorizes the District to assess additional permit fees to cover the costs of programs related to toxic air contaminants. H&S Code section 41512.7 limits the allowable percentage increase in fees for authorities to construct and permits to operate (i.e., operating/new and modified permit fees) to 15 percent per year.

H&S Code section 42311(g) authorizes air districts to adopt a schedule of fees to be assessed on area-wide or indirect sources of emissions, which are regulated but for which permits are not issued by the air district, to recover the costs of air district programs related to these sources. This section provides the authority for the District to collect asbestos fees (including fees for Naturally Occurring Asbestos operations), soil excavation reporting fees, and registration fees for various types of regulated, but non-permitted, equipment.

H&S Code section 44380(a) authorizes air districts to adopt a fee schedule, which recovers the costs to the air district and the State of the Air Toxics Hot Spots Program (AB 2588).

H&S Code section 42311(h) authorizes air districts to adopt a schedule of fees to cover the reasonable costs of the Hearing Board incurred as a result of appeals from air district decisions on the issuance of permits. Section 42364(a) provides similar authority to collect fees for the filing of applications for variances or to revoke or modify variances.

The proposed fee amendments are in accordance with all applicable authorities provided in the California Health and Safety Code. Based on the results of the 2008

Cost Recovery Study, permit fee revenue following the proposed amendments would still be far below the District's direct and indirect program activity costs associated with air quality programs covering permitted sources. Similarly, Hearing Board fee revenue will still be below the District's program activity costs associated with Hearing Board activities related to variances and permit appeals. Finally, fee revenue from non-permitted area-wide sources would not exceed the District's program activity costs for these sources.

## **6. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS**

### **6.1 EMISSIONS IMPACTS**

There will be no direct increase or decrease in air emissions as a result of the proposed amendments.

### **6.2 ECONOMIC IMPACTS**

The District must, in some cases, consider the socioeconomic impacts and incremental costs of proposed rules or amendments. Section 40728.5(a) of the California H&S Code requires that socioeconomic impacts be analyzed whenever a district proposes the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations. The proposed fee amendments will not significantly affect air quality or emissions limitations, and so a socioeconomic impact analysis is not required.

Section 40920.6 of the H&S Code specifies that an air district is required to perform an incremental cost analysis for a proposed rule, if the purpose of the rule is to meet the requirement for best available retrofit control technology or for a feasible measure. The proposed fee amendments are not considered best available retrofit control technology requirements, nor are they a feasible measure required under the California Clean Air Act. Therefore, an incremental cost analysis is not required.

The impact of the proposed fee amendments on small businesses is expected to be minimal. Many small businesses operate only one or two permitted sources, and generally pay only the minimum permit renewal fees. Table 4 provides a summary of typical annual permit renewals fees projected for FYE 2009 for various sizes of dry cleaners, auto body shops, gasoline stations, and facilities with only diesel engine backup generators (BUGs), along with the estimated increase in renewal fees relative to the current FYE 2008.

**Table 4. Projected Typical Annual Permit Renewal Fees for FYE 2009, and Increases in Renewal Fees Relative to FYE 2008**

Facility Size →	Small		Medium		Large	
	Total Fee	Increase	Total Fee	Increase	Total Fee	Increase
Dry Cleaner	\$373	\$23	\$418	\$29	\$1,171	\$111
Auto Body Shop	\$292	\$34	\$292	\$34	\$582	\$68
Gasoline Station	\$746	\$90	\$1,429	\$177	\$2,113	\$264
Diesel BUG Facility	\$305	\$8	\$380	\$13	\$1,097	\$60

Table Notes

Small Dry Cleaner: One machine, 50 gal/yr Perc  
 Medium Dry Cleaner: One machine; 150 gal/yr Perc  
 Large Dry Cleaner: Two machines; 400 gal/yr Perc  
 Small Autobody Shop: One Booth; 100 gal/yr paint; 50 gal/yr cleanup  
 Medium Autobody Shop: One Booth; 200 gal/yr paint; 75 gal/yr cleanup  
 Large Autobody Shop: Two Booths; 500 gal/yr paint; 200 gal/yr cleanup  
 Small Gasoline Station: Four triple product nozzles  
 Medium Gasoline Station: Eight triple product nozzles  
 Large Gasoline Station: Twelve triple product nozzles  
 Small Diesel BUG Facility: One 500-HP diesel engine  
 Med. Diesel BUG Facility: One 1500-HP diesel engine  
 Large Diesel BUG Facility: Two 2000-HP diesel engines

**6.3 ENVIRONMENTAL IMPACTS**

The California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, 14 CCR 15000 et seq., require a government agency that undertakes or approves a discretionary project to prepare documentation addressing the potential impacts of that project on all environmental media. Certain types of agency actions are, however, exempt from CEQA requirements. The proposed fee amendments are exempt from the requirements of the CEQA under Section 15273 of the CEQA Guidelines, which state: "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies...." (See also Public Resources Code Section 21080(b)(8)).

Section 40727.2 of the H&S Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires an air district to identify existing federal and air district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any

differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, section 40727.2 of the H&S Code does not apply.

#### **6.4 STATUTORY FINDINGS**

Pursuant to H&S Code section 40727, regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments to Regulation 3 are:

- Necessary to fund the District's efforts to attain and maintain federal and state air quality standards, and to reduce public exposure to toxic air contaminants;
- Authorized by H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9;
- Clear, in that the amendments are written so that the meaning can be understood by the affected parties;
- Consistent with other District rules, and not in conflict with any state or federal law;
- Not duplicative of other statutes, rules or regulation; and
- Implements and references H&S Code sections 42311, 42311.2, 41512.7, 42364, 44380 and 40 CFR Part 70.9.

#### **7. RULE DEVELOPMENT PROCESS**

On January 31, 2008, the District issued a notice for a public workshop to discuss with interested parties a proposal to increase District fees. Distribution of this notice included all District-permitted facilities, asbestos contractors, agricultural facilities, and a number of other potentially interested stakeholders. Approximately 9,000 workshop notices were mailed-out, and the notice was also posted on the District website.

The public workshop was held on February 25, 2008. Approximately forty members of the public attended. On February 27, 2008, District staff provided a briefing on the proposed amendments to the District Board of Directors' Budget and Finance Committee. On March 13, 2008, a briefing on the proposed GHG Fee Schedule was provided to the Board of Directors' Climate Protection Committee. On March 17, 2008, the District issued a Public Hearing Notice. A public hearing to accept testimony on the proposed amendments has been scheduled for April 16, 2008. A second public hearing will be scheduled for May 21, 2008, to consider adoption of the proposed amendments. If adopted, the amendments would be made effective on July 1, 2008.

Under H&S Code section 41512.5, the adoption or revision of fees for non-permitted sources require two public hearings that are held at least 30 days apart from one another. This provision applies to Schedule L: Asbestos Operations, Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, Schedule R: Equipment Registration Fees, and Schedule S: Naturally Occurring Asbestos Operations. The two public hearings previously described will fulfill the requirements of H&S Code section 41512.5.



## 8. PUBLIC COMMENTS

As of the date of this report, 20 separate sets of written comments have been received by the District on the District staff fee proposal; 18 sets of comments were specific to the proposed new GHG Fee Schedule, and 2 sets of comments were more general in nature. The current District staff fee proposal contains several changes made from the initial draft in consideration of these comments. A list of the individuals or groups that provided comments is listed in Appendix B of this report, along with a characterization of their general position (e.g., supports, opposes, provides comments on specific aspects of the proposal).

A summary of the comments received, and District staff responses to these comments, follows. Similar comments from multiple individuals/groups are grouped together.

Comment: A superintendent of a public school district requested that the proposed fee increases be delayed by two years due to the fiscal burden resulting from the statewide budget crisis.

Response: District staff recognizes the difficulties that public schools are facing, but does not believe that the proposed fee increases will result in a significant financial impact. For the top 10 public school facilities (K-12) paying annual Permit to Operate renewal fees, FYE 2009 fee increases would range from \$8 to \$44, with an average increase of \$23. As a matter of policy, District staff believes that public agencies with air pollution sources should pay a fair share of the costs that the District incurs in regulating these sources, and therefore should not be exempted or deferred from fee increases.

Comment: One comment indicated that the new GHG fee should not be imposed until the economy bottoms out or starts to show signs of recovery, or should be phased-in gradually so businesses can acclimate to it. Another comment indicated opposition to the new GHG fee because it would likely be passed on to Bay Area consumers in the form of more expensive goods and services. One comment suggested that the fee is really a “carbon tax” that should be put to the voters to decide. Another suggested that companies be required to purchase offsets rather than paying a fee that may not actually reduce GHGs.

Response: District staff is sympathetic to businesses that are impacted by the current economic slowdown, but feel that the additional fee revenue from the adoption of Schedule T is needed at this time to fund the relevant work that is required under the District’s Climate Protection Program. Even with these fee increases, overall District fee revenue will continue to fall well short of the point of full cost recovery.

In general, District fees are expected to have a minor financial impact on businesses relative to other factors (e.g., the costs of property and labor). It should be noted that the top 20 GHG fee-paying facilities (which would pay approximately 80 percent of the total fees), are large industrial facilities that should have the capability of paying

applicable fees without significant financial impacts. District staff acknowledge that some businesses paying GHG fees may pass these costs on to consumers thereby serving to better internalize the societal costs associated with GHG emissions (albeit to a very small degree).

District staff disagrees that the proposed fee represents a general “carbon tax”. The fees are intended to recover District costs for Climate Protection Program activities related to stationary sources. These activities, including participation in AB 32 implementation, are expected to result in significant GHG emission reductions, although the connection between fees and emission reductions will take time to develop. Under State law, District fees are established by regulation adopted by the District’s Board of Directors after appropriate public process, and not by voters.

Comment: One commenter had several specific comments with regard to fees for a cement manufacturing facility in their area. The commenter indicated that the expected GHG fee for this facility would not be high enough to present an incentive for the facility to reduce GHG emissions. The commenter urged the District to require the facility to use only natural gas as a fuel, thereby reducing emissions of GHGs and other pollutants. The commenter also expressed concern that assessing fees based on emission levels would provide a disincentive for the District to require reduced emissions (another commenter also submitted a similar comment).

Response: District fees are a mechanism for cost recovery and are not intended to act as incentives for facilities to reduce emissions (although it is acknowledged that this may occur to some limited degree). District staff disagrees with the assertion that emissions-based fees in any way provide a disincentive for the District to act to reduce emissions, where such reductions are necessary and appropriate. The District has in the past increased fee rates as necessary to address declining revenue resulting from declining emissions.

Under AB 32, CARB is required to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective reductions of GHG emissions from sources in California. In October 2007, CARB adopted a list of potential early action measures to reduce GHG emissions. The cement industry was added as one of the measures for consideration on the early action list. The District is currently working cooperatively with CARB in the rule development process for this control measure.

The cement manufacturing industry has been identified as a major source of CO<sub>2</sub> emissions from three sources: 1) direct emissions from fuel combustion, 2) direct emissions from limestone calcinations, and 3) indirect emissions from electricity use. Reducing CO<sub>2</sub> emissions from cement manufacturing will likely require facilities to convert to alternative fuels, improve energy efficiency practices and technologies, and/or make use of blending cements.

Comment: Several comments indicated that the proposed GHG Fee Schedule, and the District activities that it may fund, may lead to fragmentation of GHG emission control

efforts in California, with the potential to retard implementation of the statewide AB 32 program. One comment indicated that the magnitude of the climate change issue requires consistent statewide requirements rather than a patchwork of local standards of differing detail and stringency. Other comments expressed concern that the District proposal would set an unfortunate precedent that other air districts, and/or other types of regional/local agencies may follow. The comments suggest that the District's efforts to regulate GHGs may result in conflicts, duplication, and/or inconsistencies with the statewide program. Several comments expressed particular concern with conflicts that may result related to market-mechanisms that may be established by CARB. Others expressed concern regarding duplication, inconsistencies, and confusion that may result from dual CARB and District GHG emission inventory reporting, and about the accuracy of the District GHG emissions inventory and its emissions calculations relative to that of CARB. One comment indicated that the GHG Fee Schedule should not go beyond recovery of costs for working with CARB in its effort to implement AB 32.

Response: District staff believes that the concerns expressed by these comments are unfounded, exaggerated, or both. District staff is working closely with CARB to coordinate climate protection efforts, and is closely tracking the implementation of AB 32, in order to avoid or minimize any conflicts, duplication, or inconsistencies in program requirements.

It is important to stress that the District's efforts in regulating GHGs have focused on the integration of climate protection considerations into ongoing rule development efforts that are intended to reduce criteria and/or toxic air pollutant emissions. The District is required to analyze proposed regulatory requirements for conflicts, duplication, and inconsistencies as a part of its rule development process on an ongoing basis. Any potential conflicts, or areas of significant duplication or inconsistency, that may develop based on statewide regulatory requirements that CARB establishes in the future can be addressed as needed through amendments to District rules.

A conflict results when a regulated facility is incapable of simultaneously complying with more than one applicable requirement. Conflicts in regulatory requirements occur very rarely, and the comments received have identified no specific examples of conflicts that may result from the District staff's proposed GHG Fee Schedule. The comment that District regulatory measures may somehow conflict with market-based requirements that CARB may develop at a future date is speculative and highly unlikely. District staff believes that commenters may be concerned that District regulatory requirements could in some manner diminish the value of GHG emission reduction credits (ERCs) used in a market-based system, as ERCs are typically based on emission reductions that are beyond what command-and-control regulations require and/or that qualify as voluntary early actions before regulations go into effect. Certainly, the adoption of a GHG Fee Schedule, which is administrative in nature, would do nothing to diminish the value of any ERCs.

District staff believes that the comment that dual GHG emissions inventory reporting, to the District and CARB, is duplicative, and will lead to inconsistencies and confusion, is

exaggerated. The District GHG point source emissions inventory is based on detailed process and material usage data that has been submitted from permitted facilities in establishing criteria and toxics emissions inventories. With only a few limited exceptions, no additional information is needed to determine GHG emissions beyond what is already required to determine criteria and toxics emissions.

Air districts are required to provide detailed point source emissions inventory data to CARB for inclusion in the California Emission Inventory Development and Reporting System (CEIDARS). CARB then converts the data to the National Inventory Format (NIF) before submitting the information to U.S. EPA. In 2005, CARB modified the CEIDARS database to allow for reporting of the following GHGs: CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, SF<sub>6</sub>, PFCs, and HFCs. CARB has requested that the air districts provide GHG emissions data as part of their annual CEIDARS database reporting to CARB.

There are some important differences between the District's GHG emissions inventory and the emissions inventory that will be produced under CARB's mandatory reporting regulation, both in terms of the number of facilities included and the level of detail of information. The existing District emissions inventory contains GHG emissions data for over 2500 facilities; whereas only an estimated 200 Bay Area facilities will be required to report under the CARB mandatory reporting program. The District emissions inventory data are also maintained at a more detailed level (i.e., "device level") than what is required under the CARB mandatory reporting program.

Reporting is required under CARB's regulation for mandatory reporting of GHGs beginning in 2009 (with verification to begin in 2010). District staff is working on a software development project that is intended to make use of information that facilities report to CARB under the mandatory reporting regulation in order to minimize duplication and inconsistencies in inventory figures.

District staff has no specific comment on whether other regional/local agencies may follow the District's lead in adopting fees for recovering their GHG-related program costs.

Comment: One comment was specific to near-term concerns that the District's actions could significantly complicate the issue of identifying appropriate credit under AB 32 for voluntary early actions to reduce a facility's GHG emissions. This would make it more difficult for facilities to decide on investments needed to create voluntary reductions.

Response: District staff understands that because the vast majority of the AB 32 program requirements have yet to be proposed by CARB, it may be difficult for facilities to determine what, if any, voluntary early actions that reduce GHG emissions may result in creditable ERCs. The District finds it difficult to believe, however, that the limited actions that the District is taking in terms of regulating GHGs from stationary sources (which are focused on integration of criteria/toxics/GHG reduction efforts across programs) would render these determinations significantly more difficult to reach.

Comment: Several comments indicated concern that, although AB 32 program control measures require consideration of technological feasibility and cost-effectiveness, District-developed GHG control measures may not. The comments also indicate that the AB 32 program requires that “leakage” be considered in control measure development (leakage being where a reduction in emissions of GHGs within the state may be offset by an increase in emissions of GHGs outside the state). One commenter indicated that the District should perform an analysis to determine whether the proposed GHG fees meet the “standards for AB 32 regulations”.

Response: The District considers technological feasibility and cost-effectiveness for all its proposed regulatory requirements and will continue to do so. Although “leakage” has not been considered in the past, it will be in future measures to the extent that the issue is relevant. Factors such as technological feasibility, cost-effectiveness, and leakage are appropriate to consider in the rule development process for specific control measures, but not in establishing appropriate fees for recovering program costs.

Comment: Several comments questioned whether fee revenue should be used to conduct studies to identify and evaluate potential GHG control strategies, as this will duplicate efforts by CARB under AB 32. A specific concern was expressed with regard to a study that is being conducted in part to support amendments to Rule 9-7, which the commenter indicated is intended to control NO<sub>x</sub> emissions. One commenter indicated that this is a prime example of program fragmentation.

Response: The District’s authority for recovery of costs through assessing fees is broad and includes program activities such as the development of stationary source control strategies and rules. One of the specific elements of the District’s Climate Protection Program is the integration of climate protection considerations into District functions, such as rule development. The standards in the draft amendments to Rule 9-7 would reduce emissions of both NO<sub>x</sub> and CO<sub>2</sub>. District staff does not believe that AB 32 was intended to limit local or regional agencies in terms of integrating considerations of GHG emissions into their ongoing regulatory programs. CARB may very well consider the District’s work in this area in setting GHG standards for similar sources statewide at a future date. If CARB were to adopt the same or similar standards statewide, the District would consider whether further amendments to Rule 9-7 are needed.

Comment: Several comments indicated that the District does not have the statutory authority to adopt GHG-related programs, and therefore does not have the authority to adopt fees to recover the costs of these programs. One commenter indicated that District permit fees are specifically limited to recovering costs of programs that are “authorized or required” under Division 26 of the H&S Code. The commenter indicated that GHG programs were specifically established by AB 32 in a new Division 25.5. The commenters indicated that AB 32 provides no role for, or authority to, the air districts and that the District should focus on its core duties and activities rather than on efforts to reduce GHGs.

Response: District staff disagrees with the assertion that existing authorities in Division

26 of the H&S Code are insufficient to allow the District to regulate GHGs, or to recover the costs of doing so. District staff also does not agree that the air districts have no role in the AB 32 program. The District is an active stakeholder in the AB 32 program and is expending an increasing amount of staff time in that capacity, most of which is the direct result of requests from CARB.

Comment: One comment indicated that the District should recover its costs for administering its role under CEQA from permit applicants and local agencies requesting the District's engagement.

Response: The District intends to recover the costs from permit applicants of preparation of CEQA documentation in the District's role as a lead agency under the provisions of Section 3-315. A similar cost recovery mechanism does not exist, however, for recovery of costs related to the District's more common role as a responsible agency. Responsible agencies provide technical and regulatory support to lead agencies in the early stages of the CEQA process, and develop and submit comments on CEQA documents for a wide variety of projects.

Comment: Several comments indicated that the proposed District GHG Fee Schedule may overlap with fees that CARB may require under AB 32, and should, therefore, not be adopted. One commenter requested that the District review its fees on a regular basis and make appropriate adjustments to minimize the possibility of duplication and overlap in fee programs.

Response: The proposed GHG Fee Schedule is intended to recover costs of Climate Protection Program activities related to stationary sources. To date, funding for these activities has been derived from the District's General Fund. In the future, if CARB provides a specific source of funding to the air districts for the purpose of recovering costs of activities related to AB 32 implementation, District staff will reexamine the fee rate in Schedule T to avoid over-collection of fee revenue.

Comment: A local chapter of a national environmental organization provided comments in support of the proposed GHG Fee Schedule and associated Climate Protection Program. The commenter also indicated that adoption of the GHG Fee Schedule would help the District meet its fiduciary responsibilities to Bay Area residents by recouping program costs from GHG emitting facilities rather than property tax payers. Another individual commented that the proposed GHG fee was an important step in internalizing the costs of manufactured products.

Response: District staff appreciates the supporting comments, and agrees that the District should continue to move towards more complete cost recovery for its regulatory programs. This will allow the District to use a greater portion of its county property tax revenue toward projects that benefit air quality, but that do not have a dedicated funding source.

Comment: Several comments indicated that the expansive list of GHGs and associated

GWPs in the initial draft Schedule T is inconsistent with AB 32 and other climate change frameworks.

Response: District staff has changed the list of GHGs in Schedule T to incorporate the shorter list provided in the IPCC Second Assessment Report, which is used by both CARB and the U.S. EPA. District staff will consider updating this list in future amendments to Regulation 3.

Comment: Several comments indicated that the regulatory language should clarify that Schedule T fees apply only to GHG emissions from stationary sources and not mobile sources. One commenter recommended that the term “stationary source” be defined. Other comments indicated that Schedule T fees should not apply to sources that are exempt from District permit requirements.

Response: The regulatory language in Schedule T has been modified from the initial draft to clarify that GHG fees apply only to District permitted sources (sources that require a District Permit to Operate). Secondary emissions from abatement devices controlling emissions from permitted sources will also be included. Requirements for sources that require a District Permit to Operate are specified in District Rule 2-1, and a definition of the term “stationary source” is therefore deemed to be unnecessary. Mobile sources (e.g., trucks, ships, locomotives, and mobile equipment) do not require a District’s Permit to Operate and will not be subject to fees under Schedule T.

Comment: Several comments indicated that creating a duplicate GHG regulation system at the District would make Bay Area businesses less competitive because companies outside of the region will not face similar costs.

Response: District staff has no plans to create a duplicate GHG regulation system. The District will be assisting CARB with the implementation of the AB 32 program, and integrating climate protection considerations into regulatory efforts that are intended to reduce criteria and/or toxic air pollutant emissions. Costs of any potential District regulatory measures on businesses will be considered.

Comment: One comment from an owner/operator of a number of Bay Area power plants indicated that since GHGs are a global issue there is an unfair cost burden to its facilities since most of the Climate Protection Program activities that the District might fund are well established and require little research for the power sector since the CEC and CPUC are diligently working on these issues.

Response: Fees are set not only in consideration of the burden that a facility may impose on a regulatory agency in terms of program activity costs. Fees are also set in consideration of the benefits that may be derived from regulation, which, in the case of the District, is typically measured in terms of a facility’s emissions. The courts in a number of cases have affirmed the equity of emissions-based fees, and the District believes that the proposed GHG fees are fair.

Comment: Comments made on behalf of many Bay Area wastewater treatment plants indicated that biogenic GHG emissions should not be subject to fees. Comments made on behalf of many Bay Area landfills indicated that biogenic CO<sub>2</sub> emissions should not be subject to fees.

Response: District staff agrees that biogenic CO<sub>2</sub> emissions should not be subject to fees and has changed the GHG fee proposal accordingly. District staff believes that facilities should pay fees for non-CO<sub>2</sub> GHG emissions, such as methane from anaerobic decomposition (which many facilities collect and combust to create CO<sub>2</sub>, a much less potent GHG than methane) and nitrous oxide from combustion of landfill gas and sewage digester gas.

Comment: Additional comments made on behalf of Bay Area landfill owner/operators are: (1) landfill operators should be allowed to submit site specific factors for landfill gas collection efficiencies and methane oxidation in cap and cover materials, (2) GHG fees should be reduced for sources that recover energy from landfill gas and other biogenic energy sources, and (3) GHG fees should be reduced for landfills based on a landfill's sequestration of carbon.

Response: District staff has no objection to any facility submitting information for the purpose of refining a facility's emissions inventory on a site-specific basis. The District reserves the right to establish a facility's emissions based on the Air Pollution Control Officer's judgment of what is the best available information.

District staff does not agree that GHG fees should be reduced for engines or other sources that recover energy from landfill gas or other biogenic energy sources, nor for a landfill's ability to sequester carbon that might otherwise be emitted into the atmosphere. The exemption of biogenic CO<sub>2</sub> emissions (the primary GHG resulting from the combustion of biogenic materials) will significantly reduce the fees from these facilities. The remaining fees are not sufficiently high to discourage, in any significant way, projects that convert biogas into energy. Such resource recovery projects are already encouraged by provisions in State law that allow qualifying facilities to avoid the costs of obtaining emission offsets. Landfills are also a source category that the District has spent considerable time evaluating for potential GHG emission reductions, and are a listed early action category under AB 32 for which the District is a workgroup member.





BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

DRAFT

APRIL 7, 2008

### **APPENDIX A PROPOSED REGULATORY LANGUAGE**

**REGULATION 3  
FEES**

**INDEX**

**3-100 GENERAL**

- 3-101 Description
- 3-102 Deleted July 12, 1989
- 3-103 Exemption, Abatement Devices
- 3-104 Deleted August 2, 1995
- 3-105 Exemption, Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees
- 3-106 Deleted December 2, 1998
- 3-107 Exemption, Sources Exempt from Permit Requirements

**3-200 DEFINITIONS**

- 3-201 Cancelled Application
- 3-202 Gasoline Dispensing Facility
- 3-203 Filing Fee
- 3-204 Initial Fee
- 3-205 Authority to Construct
- 3-206 Modification
- 3-207 Permit to Operate Fee
- 3-208 Deleted June 4, 1986
- 3-209 Small Business
- 3-210 Solvent Evaporating Source
- 3-211 Source
- 3-212 Deleted August 2, 1995
- 3-213 Major Stationary Source
- 3-214 Deleted effective March 1, 2000
- 3-215 Deleted effective March 1, 2000
- 3-216 Deleted effective March 1, 2000
- 3-217 Deleted effective March 1, 2000
- 3-218 Deleted effective March 1, 2000
- 3-219 Deleted effective March 1, 2000
- 3-220 Deleted effective March 1, 2000
- 3-321 Deleted effective March 1, 2000
- 3-222 Deleted effective March 1, 2000
- 3-223 Start-up Date
- 3-224 Permit to Operate
- 3-225 Minor Modification
- 3-226 Air Toxics "Hot Spots" Information and Assessment Act of 1987
- 3-227 Toxic Air Contaminant, or TAC
- 3-228 Deleted December 2, 1998
- 3-229 Deleted December 2, 1998
- 3-230 Deleted December 2, 1998
- 3-231 Deleted December 2, 1998
- 3-232 Deleted December 2, 1998
- 3-233 Deleted December 2, 1998
- 3-234 Deleted December 2, 1998
- 3-235 Deleted December 2, 1998
- 3-236 Deleted December 2, 1998
- 3-237 PM<sub>10</sub>
- 3-238 Risk Screening Fee

3-239 Toxic Surcharge

**3-300 STANDARDS**

- 3-301 Hearing Board Fees
- 3-302 Fees for New and Modified Sources
- 3-303 Back Fees
- 3-304 Alteration
- 3-305 Cancellation or Withdrawal
- 3-306 Change in Conditions
- 3-307 Transfers
- 3-308 Change of Location
- 3-309 Duplicate Permit
- 3-310 Fee for Constructing Without a Permit
- 3-311 Banking
- 3-312 Emission Caps and Alternative Compliance Plans
- 3-313 Deleted May 19, 1999
- 3-314 Deleted August 2, 1995
- 3-315 Costs of Environmental Documentation
- 3-316 Deleted June 6, 1990
- 3-317 Asbestos Operation Fee
- 3-318 Public Notice Fee, Schools
- 3-319 Major Stationary Source Fees
- 3-320 Toxic Inventory Fees
- 3-321 Deleted December 2, 1998
- 3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank  
Operation Fees
- 3-323 Pre-Certification Fees
- 3-324 Deleted June 7, 2000
- 3-325 Deleted December 2, 1998
- 3-326 Deleted December 2, 1998
- 3-327 Permit to Operate, Renewal Fees
- 3-328 Fee for OEHHA Risk Assessment Reviews
- 3-329 Fee for Risk Screening
- 3-330 Fee for Renewing an Authority to Construct
- 3-331 Registration Fees
- 3-332 Naturally Occurring Asbestos Fees
- 3-333 Major Facility Review (MFR) and Synthetic Minor Application Fees
- 3-334 Greenhouse Gas Fees

**3-400 ADMINISTRATIVE REQUIREMENTS**

- 3-401 Permits
- 3-402 Single Anniversary Date
- 3-403 Change in Operating Parameters
- 3-404 Deleted June 7, 2000
- 3-405 Fees Not Paid
- 3-406 Deleted June 4, 1986
- 3-407 Deleted August 2, 1995
- 3-408 Permit to Operate Valid for 12 Months
- 3-409 Deleted June 7, 2000
- 3-410 Deleted August 2, 1995
- 3-411 Advance Deposit of Funds
- 3-412 Deleted December 2, 1998
- 3-413 Toxic "Hot Spots" Information and Assessment Act Revenues
- 3-414 Deleted December 2, 1998
- 3-415 Failure to Pay - Further Actions
- 3-416 Adjustment of Fees

**3-500 MONITORING AND RECORDS (None Included)**

**3-600 MANUAL OF PROCEDURES (None Included)**

**FEE SCHEDULES**

SCHEDULE A HEARING BOARD FEES  
SCHEDULE B COMBUSTION OF FUEL  
SCHEDULE C STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS  
SCHEDULE D GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES, BULK  
PLANTS AND TERMINALS  
SCHEDULE E SOLVENT EVAPORATING SOURCES  
SCHEDULE F MISCELLANEOUS SOURCES  
SCHEDULE H SEMICONDUCTOR AND RELATED OPERATIONS  
SCHEDULE I DRY CLEANERS  
SCHEDULE J DELETED February 19, 1992  
SCHEDULE K SOLID WASTE DISPOSAL SITES  
SCHEDULE L ASBESTOS OPERATIONS  
SCHEDULE M MAJOR STATIONARY SOURCE FEES  
SCHEDULE N TOXIC INVENTORY FEES  
SCHEDULE O DELETED May 19, 1999  
SCHEDULE P MAJOR FACILITY REVIEW FEES  
SCHEDULE Q EXCAVATION OF CONTAMINATED SOIL AND REMOVAL OF  
UNDERGROUND STORAGE TANKS  
SCHEDULE R EQUIPMENT REGISTRATION FEES  
SCHEDULE S NATURALLY OCCURRING ASBESTOS ~~OPERATIONS FEES~~  
SCHEDULE T GREENHOUSE GAS FEES

## REGULATION 3 FEES

(Adopted June 18, 1980)

### 3-100 GENERAL

**3-101 Description:** This regulation establishes fees to be charged for Hearing Board filings, for permits, banking, ~~experimental exemptions,~~ renewal of permits, costs of environmental documentation, asbestos operations, air toxics inventories, equipment registrations, and soil excavation and underground tank removals.

*(Amended 7/6/83; 11/2/83; 2/21/90; 12/16/92; 8/2/95; 12/2/98; 5/21/03)*

**3-102 Deleted July 12, 1989**

**3-103 Exemption, Abatement Devices:** Installation, modification, or replacement of abatement devices on existing sources are subject to fees pursuant to Section 3-302.3. All abatement devices are exempt from annual permit renewal fees. However, emissions from abatement devices, including any secondary emissions, shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, ~~and P,~~ and T.

*(Amended 6/4/86; 7/1/98; 6/7/00)*

**3-104 Deleted August 2, 1995**

**3-105 Exemption, Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Fees shall not be required, pursuant to Section 3-322, for operations associated with the excavation of contaminated soil and the removal of underground storage tanks if one of the following is met:

105.1 The tank removal operation is being conducted within a jurisdiction where the APCO has determined that a public authority has a program equivalent to the District program and persons conducting the operations have met all the requirements of the public authority.

105.2 Persons submitting a written notification for a given site have obtained an Authority to Construct or Permit to Operate in accordance with Regulation 2, Rule 1, Section 301 or 302. Evidence of the Authority to Construct or the Permit to Operate must be provided with any notification required by Regulation 8, Rule 40.

*(Adopted 1/5/94; Amended 5/21/03)*

**3-106 Deleted December 2, 1998**

**3-107 Exemption, Sources Exempt from Permit Requirements:** Any source that is exempt from permit requirements pursuant to Regulation 2, Rule 1, Sections 103 through 128 is exempt from permit fees. However, emissions from exempt sources shall be included in facility-wide emissions calculations when determining the applicability of and the fees associated with Schedules M, N, and P.

*(Adopted June 7, 2000)*

### 3-200 DEFINITIONS

**3-201 Cancelled Application:** Any application which has been withdrawn by the applicant or cancelled by the APCO for failure to pay fees or to provide the information requested to make an application complete.

*(Amended 6/4/86; 4/6/88)*

**3-202 Gasoline Dispensing Facility:** Any stationary facility which dispenses gasoline directly into the fuel tanks of vehicles, such as motor vehicles, aircraft or boats. The facility shall be treated as a single source which includes all necessary equipment for the exclusive use of the facility, such as nozzles, dispensers, pumps, vapor return lines, plumbing and storage tanks.

*(Amended February 20, 1985)*

**3-203 Filing Fee:** A fixed fee for each source in an authority to construct.

*(Amended June 4, 1986)*

**3-204 Initial Fee:** The fee required for each new or modified source based on the type and size of the source. The fee is applicable to new and modified sources seeking to

obtain an authority to construct. Operation of a new or modified source is not allowed until the permit to operate fee is paid.

*(Amended June 4, 1986)*

**3-205 Authority to Construct:** Written authorization from the APCO, pursuant to Section 2-1-301, for a source to be constructed or modified or for a source whose emissions will be reduced by the construction or modification of an abatement device.

*(Amended June 4, 1986)*

**3-206 Modification:** See Section 1-217 of Regulation 1.

**3-207 Permit to Operate Fee:** The fee required for the annual renewal of a permit to operate or for the first year of operation (or prorated portion thereof) of a new or modified source which received an authority to construct.

*(Amended 6/4/86; 7/15/87; 12/2/98; 6/7/00)*

**3-208 Deleted June 4, 1986**

**3-209 Small Business:** A business with no more than 10 employees and gross annual income of no more than \$600,000 that is not an affiliate of a non-small business.

*(Amended 6/4/86; 6/6/90; 6/7/00; 6/15/05)*

**3-210 Solvent Evaporating Source:** Any source utilizing organic solvent, as part of a process in which evaporation of the solvent is a necessary step. Such processes include, but are not limited to, solvent cleaning operations, painting and surface coating, rotogravure coating and printing, flexographic printing, adhesive laminating, etc. Manufacture or mixing of solvents or surface coatings is not included.

*(Amended July 3, 1991)*

**3-211 Source:** See Section 1-227 of Regulation 1.

**3-212 Deleted August 2, 1995**

**3-213 Major Stationary Source:** For the purpose of Schedule M, a major stationary source shall be any District permitted plant, building, structure, stationary facility or group of facilities under the same ownership, leasehold, or operator which, in the base calendar year, emitted to the atmosphere organic compounds, oxides of nitrogen (expressed as nitrogen dioxide), oxides of sulfur (expressed as sulfur dioxide), or PM<sub>10</sub> in an amount calculated by the APCO equal to or exceeding 50 tons per year.

*(Adopted 11/2/83; Amended 2/21/90; 6/6/90; 8/2/95; 6/7/00)*

**3-214 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-215 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-216 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-217 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-218 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-219 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-220 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-221 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-222 Deleted effective March 1, 2000** *(Amended 10/20/99)*

**3-223 Start-up Date:** Date when new or modified equipment under an authority to construct begins operating. The holder of an authority to construct is required to notify the APCO of this date at least 3 days in advance. For new sources, or modified sources whose authorities to construct have expired, operating fees are charged from the startup date.

*(Adopted 6/4/86; Amended 6/6/90)*

**3-224 Permit to Operate:** Written authorization from the APCO pursuant to Section 2-1-302.

*(Adopted 6/4/86; Amended 6/7/00)*

**3-225 Minor Modification:** Any physical change or alteration to a source listed on Schedules G-3 or G-4 that will not increase emissions of any air contaminant. Such modifications may include alterations to improve energy and operational efficiency and those that reduce emissions. Alterations to increase actual or maximum production capacity shall not be considered minor modifications. Final determination of the applicability of this section shall be made by the APCO.

*(Adopted June 6, 1990)*

**3-226 Air Toxics "Hot Spots" Information and Assessment Act of 1987:** The Air Toxics "Hot Spots" Information and Assessment Act of 1987 directs the California Air Resources Board and the Air Quality Management Districts to collect information

from industry on emissions of potentially toxic air contaminants and to inform the public about such emissions and their impact on public health. It also directs the Air Quality Management District to collect fees sufficient to cover the necessary state and District costs of implementing the program.

*(Adopted 10/21/92; Amended 6/15/05)*

**3-227 Toxic Air Contaminant, or TAC:** An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in Table 2-5-1 of Regulation 2, Rule 5.

*(Adopted 10/21/92; Amended 6/15/05)*

**3-228 Deleted December 2, 1998**

**3-229 Deleted December 2, 1998**

**3-230 Deleted December 2, 1998**

**3-231 Deleted December 2, 1998**

**3-232 Deleted December 2, 1998**

**3-233 Deleted December 2, 1998**

**3-234 Deleted December 2, 1998**

**3-235 Deleted December 2, 1998**

**3-236 Deleted December 2, 1998**

**3-237 PM<sub>10</sub>:** See Section 2-1-229 of Regulation 2, Rule 1.

*(Adopted June 7, 2000)*

**3-238 Risk Screening Fee:** Fee for a new or modified source of toxic air contaminants for which a health risk screening analysis (HRSA) is required under Regulation 2-5-401, or for an HRSA prepared for other purposes (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402).

*(Adopted June 15, 2005)*

**3-239 Toxic Surcharge:** Fee paid in addition to the permit to operate fee for a source that emits one or more toxic air contaminants at a rate which exceeds a chronic trigger level listed in Table 2-5-1.

*(Adopted June 15, 2005)*

**3-240 Biogenic Carbon Dioxide:** Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide originates from carbon (released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.

**3-300 STANDARDS**

**3-301 Hearing Board Fees:** Applicants for variances or appeals or those seeking to revoke or modify variances or abatement orders or to rehear a Hearing Board decision shall pay the applicable fees, including excess emission fees, set forth in Schedule A.

*(Amended June 7, 2000)*

- 3-302 Fees for New and Modified Sources:** Applicants for authorities to construct and permits to operate new sources shall pay for each new source: a filing fee of ~~\$300~~\$318, the initial fee, the risk screening fee, the permit to operate fee, and toxic surcharge (given in Schedules B, C, D, E, F, H, I or K). Applicants for authorities to construct and permits to operate modified sources shall pay for each modified source, a filing fee of ~~\$300~~\$318, the initial fee, the risk screening fee, and any incremental increase in permit to operate and toxic surcharge fees. Where more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Except for gasoline dispensing facilities (Schedule D) and semiconductor facilities (Schedule H), the size to be used for a source when applying the schedules shall be the maximum size the source will have after the construction or modification. Where applicable, fees for new or modified sources shall be based on maximum permitted usage levels or maximum potential to emit including any secondary emissions from abatement equipment.
- 302.1 Small Business Discount: If an applicant qualifies as a small business and the source falls under schedules B, C, D (excluding gasoline dispensing facilities), E, F, H, I or K, the filing fee, initial fee, and risk screening fee shall be reduced by 50%. All other applicable fees shall be paid in full.
- 302.2 Deleted July 3, 1991
- 302.3 Fees for Abatement Devices: Applicants for an authority to construct and permit to operate abatement devices where there is no other modification to the source shall pay a ~~\$300~~\$318 filing fee and initial and risk screening fees that are equivalent to 50% of the initial and risk screening fees for the source being abated. For abatement devices abating more than one source, the initial fee shall be 50% of the initial fee for the source having the highest initial fee.
- 302.4 Fees for Reactivated Sources: Applicants for a Permit to Operate reactivated, previously permitted equipment shall pay the full filing, initial, risk screening, permit, and toxic surcharge fees.
- 302.5 Schedule G Fees: Applicants for minor modifications to permitted sources subject to Schedules G-3, ~~or G-4, or G-5~~ shall pay filing, initial, risk screening, permit to operate, and toxic surcharge fees specified under Schedule G-2. Permit renewal fees will continue to be charged under Schedules G-3, ~~and G-4, and G-5.~~
- (Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*
- 3-303 Back Fees:** An applicant required to obtain a permit to operate existing equipment in accordance with District regulations shall pay back fees equal to the permit to operate fees and toxic surcharges given in the appropriate Schedule (B, C, D, E, F, H, I or K) prorated from the effective date of permit requirements. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. The applicant shall also pay back fees equal to toxic inventory fees pursuant to Section 3-320 and Schedule N. The maximum back fee shall not exceed a total of five years' permit, toxic surcharge, and toxic inventory fees.
- (Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87, 6/6/90; 7/3/91; 10/8/97; 6/15/05)*
- 3-304 Alteration:** An applicant to alter an existing permitted source shall pay only the filing fee, provided that the alteration does not result in an increase in emissions of any regulated air pollutant.
- (Amended 6/4/86; 11/15/00; 6/2/04)*
- 3-305 Cancellation or Withdrawal:** There will be no refund of initial, risk screening, and filing fees if an application is cancelled or withdrawn. However, if an application for identical equipment is submitted within six months of the date of cancellation or withdrawal, the initial fee will be credited in full against the fee for the new application.
- (Amended 7/6/83; 4/6/88; 10/8/97; 6/15/05)*
- 3-306 Change in Conditions:** If an applicant applies to change the conditions on an existing authority to construct or permit to operate, the applicant will pay the following fees. There will be no change in anniversary date.
- 306.1 Administrative Condition Changes: An applicant applying for an



administrative change in permit conditions shall pay a fee equal to the filing fee for a single source, provided the following criteria are met:

- 1.1 The condition change applies to a single source or a group of sources with shared permit conditions.
  - 1.2 The condition change does not subject the source(s) to any District Regulations or requirements that were not previously applicable.
  - 1.3 The condition change does not result in any increase in emissions of POC, NPOC, NO<sub>x</sub>, CO, SO<sub>2</sub>, or PM<sub>10</sub> at any source or the emission of a toxic air contaminant above the trigger levels identified in Table 2-5-1
  - 1.4 The condition change does not require a public notice.
- 306.2 Other Condition Changes: Applicant shall pay the filing, initial, and risk screening fees required for new and modified equipment under Section 3-302. If the condition change will result in higher permit to operate fees, the applicant shall also pay any incremental increases in permit to operate fees and toxic surcharges.

*(Amended 7/6/83; 6/4/86; 6/6/90; 10/8/97; 6/7/00; 6/15/05)*

**3-307 Transfers:** The owner/operator of record is the person to whom a permit is issued or, if no permit has yet been issued to a facility, the person who applied for a permit. Permits are valid only for the owner/operator of record. Permits are re-issued to the new owner/operator of record with no change in expiration dates.

*(Amended 2/20/85; 6/4/86; 11/5/86; 4/6/88; 10/8/97; 5/1/02; 5/21/03; 6/02/04)*

**3-308 Change of Location:** An applicant who wishes to move an existing source, which has a permit to operate, shall pay no fee if the move is on the same facility. If the move is not on the same facility, the source shall be considered a new source and subject to Section 3-302. This section does not apply to portable permits meeting the requirements of Regulation 2-1-220 and 413.

*(Amended 7/6/83; 6/4/86; 6/15/05)*

**3-309 Duplicate Permit:** An applicant for a duplicate permit to operate shall pay a fee of ~~\$64~~\$65 per permit.

*(Amended 5/19/99, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)*

**3-310 Fee for Constructing Without a Permit:** An applicant for an authority to construct and a permit to operate a source, which has been constructed or modified without an authority to construct, shall pay the following fees:

- 310.1 Sources subject to permit requirements on the date of initial operation shall pay fees for new construction pursuant to Section 3-302, any back fees pursuant to Section 3-303, a late fee equal to 100% of the initial fee, plus the risk screening fee. A modified gasoline dispensing facility subject to Schedule D that is not required to pay an initial fee shall pay back fees, a late fee equal to 100% of the filing fee, plus the risk screening fee.
- 310.2 Sources previously exempt from permit requirements that lose their exemption due to changes in District, state, or federal regulations shall pay a permit to operate fee and toxic surcharge for the coming year and any back fees pursuant to Section 3-303.
- 310.3 Sources previously exempt from permit requirements that lose their exemption due to a change in the manner or mode of operation, such as an increased throughput, shall pay fees for new construction pursuant to Section 3-302. In addition, sources applying for permits after commencing operation in a non-exempt mode shall also pay a late fee equal to 100% of the initial fee plus the risk screening fee and any back fees pursuant to Section 3-303.
- 310.4 Sources modified without a required authority to construct shall pay fees for modification pursuant to Section 3-302 and a late fee equal to 100% of the initial fee.

*(Amended 7/6/83; 4/18/84; 6/4/86; 6/6/90; 7/3/91; 8/2/95; 10/8/97; 6/02/04; 6/15/05)*

**3-311 Banking:** Any applicant who wishes to bank emissions for future use, or convert an ERC into an IERC, shall pay a filing fee of ~~\$300~~\$318 per source plus the initial fee given in Schedules B, C, D, E, F, H, I or K. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Any applicant for the withdrawal of banked emissions shall pay a fee of ~~\$300~~\$318.

(Amended 7/6/83; 6/4/86; 7/15/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)

**3-312 Emission Caps and Alternative Compliance Plans:** Any facility which elects to use an alternative compliance plan contained in:

312.1 Regulation 8 ("bubble") to comply with a District emission limitation or to use an annual or monthly emission limit to acquire a permit in accordance with the provisions of Regulation 2, Rule 2, shall pay an additional annual fee equal to fifteen percent of the total plant permit to operate fee.

312.2 Regulation 2, Rule 9 shall pay an annual fee of ~~\$757~~**\$802** for each source included in the alternative compliance plan, not to exceed ~~\$7,573~~**\$8,027**.

(Adopted 5/19/82; Amended 6/4/86; 5/19/99; 6/7/00;6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)

**3-313 Deleted May 19, 1999**

**3-314 Deleted August 2, 1995**

**3-315 Costs of Environmental Documentation:** An applicant for an Authority to Construct a project which is subject to review under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, the District's costs of performing all environmental evaluation required pursuant to the California Environmental Quality Act, the District's costs in preparing any environmental study or Environmental Impact Report (including the costs of any outside consulting assistance which the District may employ in connection with the preparation of any such study or report), as well as the District's reasonable internal costs (including overhead) of processing and reviewing the required environmental documentation.

(Adopted 12/18/85; Amended 5/1/02)

**3-316 Deleted June 6, 1990**

**3-317 Asbestos Operation Fees:** After July 1, 1988, persons submitting a written plan, as required by Regulation 11, Rule 2, Section 401, to conduct an asbestos operation shall pay the fee given in Schedule L.

(Adopted 7/6/88; Renumbered 9/7/88; Amended 8/2/95)

**3-318 Public Notice Fee, Schools:** Pursuant to Section 42301.6(b) of the Health and Safety Code, an applicant for an authority to construct or permit to operate subject to the public notice requirements of Regulation 2-1-412 shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, a fee to cover the expense of preparing and distributing the public notices to the affected persons specified in Regulation 2-1-412 as follows:

318.1 A fee of \$2000 per application, and

318.2 The District's cost exceeding \$2000 of preparing and distributing the public notice.

318.3 The District shall refund to the applicant the portion of any fee paid under this Section that exceeds the District's cost of preparing and distributing the public notice.

(Adopted 11/1/89; Amended 10/8/97; 7/1/98; 5/19/99; 6/7/00; 5/21/03; 6/2/04)

**3-319 Major Stationary Source Fees:** Any major stationary source emitting 50 tons per year of organic compounds, sulfur oxides, nitrogen oxides, or PM<sub>10</sub> shall pay a fee based on Schedule M. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities and shall be included as part of the annual permit renewal fees.

(Adopted 6/6/90; Amended 8/2/95; 6/7/00)

**3-320 Toxic Inventory Fees:** Any facility that emits one or more toxic air contaminants in quantities above a minimum threshold level shall pay an annual fee based on Schedule N. This fee will be in addition to permit to operate, toxic surcharge, and other fees otherwise authorized to be collected from such facilities.

320.1 An applicant who qualifies as a small business under Regulation 3-209 shall pay a Toxic Inventory Fee as set out in Schedule N up to a maximum fee of ~~\$6,892~~**\$7,306** per year.

(Adopted 10/21/92; Amended 5/19/99; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)

**3-321 Deleted December 2, 1998**

**3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees:** Persons submitting a written notification for a given site to conduct either excavation of contaminated soil or removal of underground storage tanks as

required by Regulation 8, Rule 40, Section 401, 402, 403 or 405 shall pay a fee based on Schedule Q.

*(Adopted 1/5/94; Amended 8/2/95; 5/21/03)*

**3-323 Pre-Certification Fees:** An applicant seeking to pre-certify a source, in accordance with Regulation 2, Rule 1, Section 415, shall pay the filing fee, initial fee and permit to operate fee given in the appropriate schedule.

*(Adopted June 7, 1995)*

**3-324 Deleted June 7, 2000**

**3-325 Deleted December 2, 1998**

**3-326 Deleted December 2, 1998**

**3-327 Permit to Operate, Renewal Fees:** After the expiration of the initial permit to operate, the permit to operate shall be renewed on an annual basis or other time period as approved by the APCO. The fee required for the renewal of a permit to operate is the permit to operate fee and toxic surcharge listed in Schedules B, C, D, E, F, H, I, and K, prorated for the period of coverage. When more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. This renewal fee is applicable to all sources required to obtain permits to operate in accordance with District regulations. The permit renewal invoice shall also specify any applicable major stationary source fees based on Schedule M, toxic inventory fees based on Schedule N, ~~and~~ major facility review fees based on Schedule P, and greenhouse gas fees based on Schedule T. Where applicable, renewal fees shall be based on actual usage or emission levels that have been reported to or calculated by the District. In addition to these renewal fees for the sources at a facility, the facility shall also pay a processing fee at the time of renewal as follows:

327.1 ~~\$59~~\$63 for facilities with one permitted source, including gasoline dispensing facilities,

327.2 ~~\$116~~\$123 for facilities with 2 to 5 permitted sources,

327.3 ~~\$232~~\$246 for facilities with 6 to 10 permitted sources,

327.4 ~~\$348~~\$369 for facilities with 11 to 15 permitted sources,

327.5 ~~\$463~~\$491 for facilities with 16 to 20 permitted sources,

327.6 ~~\$579~~\$614 for facilities with more than 20 permitted sources.

*(Adopted 6/7/00; Amended 6/2/04; 6/16/04; 6/15/05; 6/7/06; 5/2/07)*

**3-328 Fee for OEHHA Risk Assessment Reviews:** Any facility that submits a health risk assessment to the District in accordance with Section 44361 of the California Health and Safety Code shall pay any fee requested by the State Office of Environmental Health Hazard Assessment (OEHHA) for reimbursement of that agency's costs incurred in reviewing the risk assessment.

*(Adopted June 7, 2000)*

**3-329 Fee for Risk Screening:** A health risk screening analysis (HRSA) required pursuant to Regulation 2, Rule 5 shall be subject to an appropriate Risk Screening Fee pursuant to Regulation 3-302 and Schedules B, C, D, E, F, H, I or K. In addition, any person that requests that the District prepare or review an HRSA (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402) shall pay a Risk Screening Fee.

*(Adopted June 15, 2005)*

**3-330 Fee for Renewing an Authority to Construct:** An applicant seeking to renew an authority to construct in accordance with Regulation 2-1-407 shall pay a fee of 50% of the initial fee in effect at the time of the renewal. If the District determines that an authority to construct cannot be renewed, any fees paid under this section shall be credited in full against the fee for a new authority to construct for functionally equivalent equipment submitted within six months of the date the original authority to construct expires.

*(Adopted June 15, 2005)*

**3-331 Registration Fees:** Any person who is required to register equipment under District rules shall submit a registration fee, and any annual fee thereafter, as set out in Schedule R.

*(Adopted June 6, 2007)*

**3-332 Naturally Occurring Asbestos Fees:** After July 1, 2007, any person required to Bay Area Air Quality Management District December 5, 2007

submit an Asbestos Dust Mitigation Plan (ADMP) pursuant to Title 17 of the California Code of Regulations, Section 93105, Asbestos Air Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations shall pay the fee(s) set out in Schedule S.

(Adopted June 6, 2007)

**3-333** **Major Facility Review (MFR) and Synthetic Minor Application Fees:** Any facility that applies for, or is required to undergo, an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit, a renewal of an MFR permit, an initial synthetic minor operating permit, or a revision to a synthetic minor operating permit, shall pay the applicable fees set forth in Schedule P.

**3-334** **Greenhouse Gas Fees:** Any permitted facility with greenhouse gas emissions shall pay a fee based on Schedule T. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities, and shall be included as part of the annual permit renewal fees.

**3-400 ADMINISTRATIVE REQUIREMENTS**

**3-401** **Permits:** Definitions, standards, and conditions contained in Regulation 2, Permits, are applicable to this regulation.

**3-402** **Single Anniversary Date:** The APCO may assign a single anniversary date to a facility on which all its renewable permits to operate expire and will require renewal. Fees will be prorated to compensate for different time periods resulting from change in anniversary date.

**3-403** **Change in Operating Parameters:** See Section 2-1-404 of Regulation 2, Rule 1.

**3-404** **Deleted June 7, 2000**

**3-405** **Fees Not Paid:** If an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the following procedure(s) shall apply:

405.1 Authority to Construct: The application will be cancelled, but can be reactivated upon payment of fees.

405.2 New Permit to Operate: The Permit to Operate shall not be issued, and the facility will be notified that operation, including startup, is not authorized.

2.1 Fees received during the first 30 days following the due date must include an additional late fee equal to 10 percent of all fees specified on the invoice.

2.2 Fees received more than 30 days after the due date must include an additional late fee equal to 50 percent of all fees specified on the invoice.

405.3 Renewal of Permit to Operate: The facility will be notified that the permit has lapsed and that further operation is no longer authorized. Reinstatement of lapsed Permits to Operate will require the payment of reinstatement fees in addition to all fees specified on the invoice. Fees shall be calculated using fee schedules in effect at either the time of reinstatement or at the time additional fees are assessed under subsection 3-405.2.

3.1 Fees received during the first 30 days following the due date must include all fees specified on the invoice plus a reinstatement fee equal to 10 percent of all fees specified on the invoice.

3.2 Fees received more than 30 days after the due date, but less than one year after the due date, must include all fees specified on the invoice plus a reinstatement fee equal to 50 percent of all fees specified on the invoice.

405.4 Other Fees: Persons who have not paid the fee by the invoice due date, shall pay a late fee in addition to the original invoiced fee. Fees shall be calculated using fee schedules in effect at the time of the fees' original determination.

4.1 Fees received more than 30 days after the invoice due date must include a late fee of 10 percent of the original invoiced fee.

*(Amended 7/6/83; 6/4/86; 11/5/86; 2/15/89; 6/6/90; 7/3/91; 8/2/95; 12/2/98; 6/15/05; 6/7/06)*

- 3-406 Deleted June 4, 1986**
- 3-407 Deleted August 2, 1995**
- 3-408 Permit to Operate Valid for 12 Months:** A Permit to Operate is valid for 12 months from the date of issuance or other time period as approved by the APCO.  
*(Amended 6/4/86; Amended 6/7/00)*
- 3-409 Deleted June 7, 2000**
- 3-410 Deleted August 2, 1995**
- 3-411 Advance Deposit of Funds:** The APCO may require that at the time of the filing of an application for an Authority to Construct for a project for which the District is a lead agency under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the applicant shall make an advance deposit of funds, in an amount to be specified by the APCO, to cover the costs which the District estimates to incur in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation. In the event the APCO requires such an estimated advance payment to be made, the applicant will be provided with a full accounting of the costs actually incurred by the District in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation.  
*(Adopted 12/18/85; Amended 8/2/95)*
- 3-412 Deleted December 2, 1998**
- 3-413 Toxic "Hot Spots" Information and Assessment Act Revenues:** No later than 120 days after the adoption of this regulation, the APCO shall transmit to the California Air Resources Board, for deposit into the Air Toxics "Hot Spots" Information and Assessment Fund, the revenues determined by the ARB to be the District's share of statewide Air Toxics "Hot Spot" Information and Assessment Act expenses.  
*(Adopted October 21, 1992)*
- 3-414 Deleted December 2, 1998**
- 3-415 Failure to Pay - Further Actions:** When an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the APCO may take the following actions against the applicant or owner/operator:
- 415.1 Issuance of a Notice to Comply.
  - 415.2 Issuance of a Notice of Violation.
  - 415.3 Revocation of an existing Permit to Operate. The APCO shall initiate proceedings to revoke permits to operate for any person who is delinquent for more than one month. The revocation process shall continue until payment in full is made or until permits are revoked.
  - 415.4 The withholding of any other District services as deemed appropriate until payment in full is made.
- (Adopted 8/2/95; Amended 12/2/98; 6/15/05)*
- 3-416 Adjustment of Fees:** The APCO or designees may, upon finding administrative error by District staff in the calculation, imposition, noticing, invoicing, and/or collection of any fee set forth in this rule, rescind, reduce, increase, or modify the fee. A request for such relief from an administrative error, accompanied by a statement of why such relief should be granted, must be received within two years from the date of payment.  
*(Adopted October 8, 1997)*

**SCHEDULE A  
HEARING BOARD FEES<sup>1</sup>**

Established by the Board of Directors December 7, 1977 Resolution No. 1046  
(Code section references are to the California Health & Safety Code, unless otherwise indicated)

		Large Companies	Small Business	Third Party
1.	For each application for variance exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application in accordance with §42350, the additional sum of .....	\$1733 <u>\$1993</u>  \$867 <u>\$997</u>	\$259 <u>\$298</u>  \$87 <u>\$100</u>	
2.	For each application for variance not exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance ..... Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application, in accordance with §42350, the additional sum of .....	\$1044 <u>\$1197</u>  \$519 <u>\$597</u>	\$259 <u>\$298</u>  \$87 <u>\$100</u>	
3.	For each application to modify a variance in accordance with §42356 ... Plus, for each hearing in addition to the first hearing on said application to modify a variance, in accordance with §42345, necessary to dispose of the application, the additional sum of.....	\$694 <u>\$795</u>  \$519 <u>\$597</u>	\$87 <u>\$100</u>  \$87 <u>\$100</u>	
4.	For each application to extend a variance, in accordance with §42357 .. Plus, for each hearing in addition to the first hearing on an application to extend a variance, in accordance with §42357, necessary to dispose of the application, the additional sum of.....	\$694 <u>\$795</u>  \$519 <u>\$597</u>	\$87 <u>\$100</u>  \$87 <u>\$100</u>	
5.	For each application to revoke a variance .....	\$1044 <u>\$1197</u>	\$87 <u>\$100</u>	
6.	For each application for approval of a Schedule of Increments of Progress in accordance with §41703.....	\$694 <u>\$795</u>	\$87 <u>\$100</u>	
7.	For each application for variance in accordance with §41703, which exceeds 90 days ..... Plus, for each hearing in addition to the first hearing on said application for variance in accordance with §41703, the additional sum of .....	\$1733 <u>\$1993</u>  \$867 <u>\$997</u>	\$259 <u>\$298</u>  \$87 <u>\$100</u>	
8.	For each application for variance in accordance with §41703, not to exceed 90 days ..... Plus, for each hearing in addition to the hearing on said application for a variance in accordance with §41703, the additional sum of .....	\$1044 <u>\$1197</u>  \$519 <u>\$597</u>	\$259 <u>\$298</u>  \$87 <u>\$100</u>	

		Large Companies	Small Business	Third Party
9.	For each Appeal (Permit, Banking, Title V).....	<del>\$1733</del> <u>\$1993</u> per hearing day	<del>\$867</del> <u>\$997</u> per hearing day	<del>\$867</del> <u>\$997</u> for entire appeal period
10.	For each application for intervention in accordance with Hearing Board Rules §§2.3, 3.6 & 4.6.....	<del>\$867</del> <u>\$997</u>	<del>\$174</del> <u>\$200</u>	
11.	For each application to Modify or Terminate an abatement order .....	<del>\$1733</del> <u>\$1993</u> per hearing day	<del>\$867</del> <u>\$997</u> per hearing day	
12.	For each application for an interim variance in accordance with §42351	<del>\$867</del> <u>\$997</u>	<del>\$174</del> <u>\$200</u>	
13.	For each application for an emergency variance in accordance with §42359.5.....	<del>\$432</del> <u>\$497</u>	<del>\$87</del> <u>\$100</u>	
14.	For each application to rehear a Hearing Board decision in accordance with §40861 .....	100% of previous fee charged	100% of previous fee charged	
15.	Excess emission fees.....	See Attachment I	See Attachment I	
16.	Miscellaneous filing fee for any hearing not covered above	<del>\$867</del> <u>\$997</u>	<del>\$259</del> <u>\$298</u>	<del>\$259</del> <u>\$298</u>
17.	For each published Notice of Public Hearing.....	Cost of Publication	\$0	\$0
18.	Court Reporter Fee (to be paid only if Court Reporter required for hearing) .....	<del>\$174</del> <u>\$200</u> or cost per day if hearing solely dedicated to one Docket	\$0	<del>\$174</del> <u>\$200</u> or cost per day if hearing solely dedicated to one Docket

NOTE 1 Any person who certifies under penalty of perjury that payment of the foregoing fees will cause an unreasonable hardship, may be excused from the payment of fees by order of the Hearing Board on that account.  
*(Amended 10/8/97; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE A  
ATTACHMENT I  
EXCESS EMISSION FEE**

**A. General**

- (1) Each applicant or petitioner for a variance from these Rules and Regulations shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the other filing fees required in Schedule A, an emission fee based on the total weight of emissions discharged, per source or product, other than those described in division (B) below, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table I.
- (2) Where the total weight of emission discharged cannot be easily calculated, the petitioner shall work in concert with District staff to establish the amount of excess emissions to be paid.
- (3) In the event that more than one rule limiting the discharge of the same contaminant is violated, the excess emission fee shall consist of the fee for violation which will result in the payment of the greatest sum. For the purposes of this subdivision, opacity rules and particulate mass emissions shall not be considered rules limiting the discharge of the same contaminant.

**B. Excess Visible Emission Fee**

Each applicant or petitioner for a variance from Regulation 6 or Health and Safety Code Section 41701 shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the filing fees required in Schedule A and the excess emission fees required in (A) above (if any), an emission fee based on the difference between the percent opacity allowed by Regulation 6 and the percent opacity of the emissions allowed from the source or sources operating under the variance, in accordance with the schedule set forth in Table II.

In the event that an applicant or petitioner is exempt from the provisions of Regulation 6, the applicant or petitioner shall pay a fee calculated as described herein above, but such fee shall be calculated based upon the difference between the opacity allowed under the variance and the opacity allowed under the provisions of Health and Safety Code Section 41701, in accordance with the schedule set forth in Table II.

**C. Applicability**

The provisions of subdivision (A) shall apply to all variances that generate excess emissions.

**D. Fee Determination**

- (1) The excess emission fees shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions as set forth in subdivisions (A) and (B) above. The calculations and proposed fees shall be set forth in the petition.
- (2) The Hearing Board may adjust the excess emission fee required by subdivisions (A) and (B) of this rule based on evidence regarding emissions presented at the time of the hearing.



**E. Small Businesses**

- (1) A small business shall be assessed twenty percent (20%) of the fees required by subdivisions (A) and (B), whichever is applicable. "Small business" is defined in the Fee Regulation.
- (2) Request for exception as a small business shall be made by the petitioner under penalty of perjury on a declaration form provided by the Executive Officer which shall be submitted to the Clerk or Deputy Clerk of the Hearing Board at the time of filing a petition for variance.

**F. Group, Class and Product Variance Fees**

Each petitioner included in a petition for a group, class or product variance shall pay the filing fee specified in Schedule A, and the excess emission fees specified in subdivisions (A) and (B), whichever is applicable.

**G. Adjustment of Fees**

If after the term of a variance for which emission fees have been paid, petitioner can establish, to the satisfaction of the Executive Officer/APCO, that emissions were actually less than those upon which the fee was based, a pro rata refund shall be made.

**H. Fee Payment/Variance Invalidation**

- (1) Excess emission fees required by subdivisions (A) and (B), based on an estimate provided during the variance Hearing, are due and payable within fifteen (15) days of the granting of the variance. The petitioner shall be notified in writing of any adjustment to the amount of excess emission fees due, following District staff's verification of the estimated emissions. Fee payments to be made as a result of an adjustment are due and payable within fifteen (15) days of notification of the amount due.
- (2) Failure to pay the excess emission fees required by subdivisions (A) and (B) within fifteen (15) days of notification that a fee is due shall automatically invalidate the variance. Such notification may be given by personal service or by deposit, postpaid, in the United States mail and shall be due fifteen (15) days from the date of personal service or mailing. For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.

**TABLE I  
SCHEDULE OF EXCESS EMISSIONS FEES**

Air Contaminants	All at <del>\$4.66</del> <u>\$1.91</u> Per Pound
Organic gases, except methane and those containing sulfur	
Carbon Monoxide	
Oxides of nitrogen (expressed as nitrogen dioxide)	
Gaseous sulfur compounds (expressed as sulfur dioxide)	
Particulate matter	
Toxic Air Contaminants	All at <del>\$8.26</del> <u>\$9.50</u> Per Pound
Asbestos	
Benzene	
Cadmium	
Carbon tetrachloride	
Chlorinated dioxins and dibenzofurans (15 species)	
Ethylene dibromide	
Ethylene dichloride	
Ethylene oxide	
Formaldehyde	
Hexavalent chromium	
Methylene chloride	
Nickel	
Perchloroethylene	
1,3-Butadiene	
Inorganic arsenic	
Beryllium	
Polynuclear aromatic hydrocarbons (PAH)	
Vinyl chloride	
Lead	
1,4-Dioxane	
Trichloroethylene	

**TABLE II  
SCHEDULE OF EXCESS VISIBLE EMISSION FEE**

For each source with opacity emissions in excess of twenty percent (20%), but less than forty percent (40%) (where the source is in violation of Regulation 6, the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 20) \times \text{number of days allowed in variance} \times \text{\$} ~~1.85~~ 2.13$$

For each source with opacity emissions in excess of forty percent (40%) (where the source is in violation of Regulation 6 and California Health and Safety Code Section 41701), the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 40) \times \text{number of days allowed by variance} \times \text{\$} ~~1.85~~ 2.13$$

\* Where "Opacity" equals maximum opacity of emissions in percent (not decimal equivalent) allowed by the variance. Where the emissions are darker than the degree of darkness equivalent to the allowed Ringelmann number, the percentage equivalent of the excess degree of darkness shall be used as "opacity."

*(Adopted 6/7/00; Amended 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE B  
COMBUSTION OF FUEL**

(Adopted June 18, 1980)

For each source that burns fuel, which is not a flare and not exempted by Regulation 2, Rule 1, the fee shall be computed based on the maximum gross combustion capacity (expressed as higher heating value, HHV) of the source.

1. INITIAL FEE: ~~\$38.79~~\$39.95 per MM BTU/HOUR
  - a. The minimum fee per source is: ~~\$207~~\$213
  - b. The maximum fee per source is: ~~\$72,374~~\$74,545
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus ~~\$38.79~~\$39.95 per MM BTU/hr
  - b. Minimum RSF for first TAC source: ~~\$507~~\$531
  - c. RSF for each additional TAC source: ~~\$38.79~~\$39.95 per MM BTU/Hr \*
  - d. Minimum RSF per additional TAC source: ~~\$207~~\$213 \*
  - e. Maximum RSF per source is: ~~\$72,374~~\$74,545
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: ~~\$19.39~~\$19.97 per MM BTU/HOUR
  - a. The minimum fee per source is: ~~\$148~~\$152
  - b. The maximum fee per source is: ~~\$36,186~~\$37,272
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.
  
6. Applicants for an authority to construct and permit to operate a project, which burns municipal waste or refuse-derived fuel, shall pay in addition to all required fees, an additional fee to cover the costs incurred by the State Department of Health Services, and/or a qualified contractor designated by the State Department of Health Services, in reviewing a risk assessment as required under H&S Code Section 42315. The fee shall be transmitted by the District to the Department of Health Services and/or the qualified contractor upon completion of the review and submission of comments in writing to the District.
  
7. A surcharge equal to 100% of all required initial and permit to operate fees shall be charged for sources permitted to burn one or more of the following fuels: coke, coal, wood, tires, black liquor, and municipal solid waste.

NOTE: MM BTU is million BTU of higher heat value  
One MM BTU/HR = 1.06 gigajoules/HR

*(Amended 6/5/85; 6/4/86; 3/4/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE C**  
**STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS**  
 (Adopted June 18, 1980)

For each stationary container of organic liquids which is not exempted from permits by Regulation 2 and which is not part of a gasoline dispensing facility, the fee shall be computed based on the container volume, as follows:

1. INITIAL FEE: 0.165 cents per gallon
  - a. The minimum fee per source is: \$182
  - b. The maximum fee per source is: \$24,806
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus 0.165 cents per gallon
  - b. Minimum RSF for first TAC source: \$482
  - c. RSF for each additional TAC source: 0.165 cents per gallon \*
  - d. Minimum RSF per additional TAC source: \$182 \*
  - e. Maximum RSF per source is: \$24,806

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE: 0.083 cents per gallon
  - a. The minimum fee per source is: \$130
  - b. The maximum fee per source is: \$12,403
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 7/1/98; 5/19/99;  
 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE D  
GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES,  
BULK PLANTS AND TERMINALS**

(Adopted June 18, 1980)

A.. All gasoline dispensing facilities shall pay the following fees:

1. INITIAL FEE: ~~\$125.48~~\$144.30 per single product nozzle (spn)  
~~\$125.48~~\$144.30 per product for each multi-product nozzle (mpn)
2. PERMIT TO OPERATE FEE: ~~\$48.06~~\$55.27 per single product nozzle (spn)  
~~\$48.06~~\$55.27 per product for each multi-product nozzle (mpn)

3. Initial fees and permit to operate fees for hardware modifications at a currently permitted gasoline dispensing facility shall be consolidated into a single fee calculated according to the following formula:

$$\frac{\$173.54}{\$199.57} \times \left\{ \left[ \frac{(\text{mpn}_{\text{proposed}})(\text{products per nozzle}) + \text{spn}_{\text{proposed}}}{(\text{mpn}_{\text{existing}})(\text{products per nozzle}) + \text{spn}_{\text{existing}}} \right] - 1 \right\}$$

*mpn* = multi-product nozzles  
*spn* = single product nozzles

The above formula includes a toxic surcharge.

If the above formula yields zero or negative results, no initial fees or permit to operate fees shall be charged.

For the purposes of calculating the above fees, a fuel blended from two or more different grades shall be considered a separate product.

Other modifications to facilities' equipment, including but not limited to tank addition/replacement/conversion, vapor recovery piping replacement, moving or extending pump islands, will not be subject to initial fees or permit to operate fees.

4. RISK SCREENING FEE (RSF) of ~~\$300~~\$318 per application is only applicable to projects for which a health risk screening analysis is required under Regulation 2-5-401 [including increases in permitted throughput for which a health risk screening analysis is required.]
  5. Nozzles used exclusively for the delivery of diesel fuel or other fuels exempt from permits shall pay no fee. Multi-product nozzles used to deliver both exempt and non-exempt fuels shall pay fees for the non-exempt products only.
- B. All bulk plants, terminals or other facilities using loading racks to transfer gasoline or gasohol into trucks, railcars or ships shall pay the following fees:

1. INITIAL FEE: ~~\$1,649~~\$1,896 per single product loading arm  
~~\$1,649~~\$1,896 per product for multi-product arms

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.

- a. RSF for first TAC source in application: ~~\$1,949~~\$2,214
- b. RSF for each additional TAC source: ~~\$1,649~~\$1,896 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$460~~\$529 per single product loading arm  
~~\$460~~\$529 per product for multi-product arms

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- C. Fees in (A) above are in lieu of tank fees. Fees in (B) above are in addition to tank fees.
- D. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99;  
6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE E**  
**SOLVENT EVAPORATING SOURCES**  
 (Adopted June 18, 1980)

For each solvent evaporating source, as defined in Section 3-210 except for dry cleaners, the fee shall be computed based on the net amount of organic solvent processed through the sources on an annual basis (or anticipated to be processed, for new sources) including solvent used for the cleaning of the sources.

1. INITIAL FEE:
  - a. The minimum fee per source is: ~~\$276~~\$317
  - b. If usage is not more than 1,000 gallons/year: ~~\$276~~\$317
  - c. If usage is more than 1,000 gallons/year: ~~\$555~~\$638 per 1,000 gallons
  - d. The maximum fee per source is: ~~\$22,069~~\$25,379
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$635
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$317 \*
  - e. Maximum RSF per source is: ~~\$22,069~~\$25,379

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE:
  - a. The minimum fee per source is: ~~\$199~~\$229
  - b. If usage is not more than 1,000 gallons/year: ~~\$199~~\$229
  - c. If usage is more than 1,000 gallons/year: ~~\$276~~\$317 per 1,000 gallons
  - d. The maximum fee per source is: ~~\$11,033~~\$12,688
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 5/19/82; 10/17/84; 6/5/85; 6/4/86; 10/8/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE F  
MISCELLANEOUS SOURCES**  
(Adopted June 18, 1980)

For each source not governed by Schedules B, C, D, E, H or I, (except for those sources in the special classification lists, G-1 - G-5) the fees are:

- 1. INITIAL FEE: ~~\$276~~\$301
  
- 2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$576~~\$619
  - b. RSF for each additional TAC source: ~~\$276~~\$301 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
- 3. PERMIT TO OPERATE FEE: ~~\$199~~\$217
  
- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1. List of special classifications requiring graduated fees is shown in Schedules G-1, G-2, G-3, G-4, and G-5.

G-1. FEES FOR SCHEDULE G-1, For each source in a G-1 classification, fees are:

- 1. INITIAL FEE: ~~\$1,654~~\$1,803
  
- 2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$1,954~~\$2,121
  - b. RSF for each additional TAC source: ~~\$1,654~~\$1,803 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
- 3. PERMIT TO OPERATE FEE: ~~\$826~~\$900
  
- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-2. FEES FOR SCHEDULE G-2, For each source in a G-2 classification, fees are:

- 1. INITIAL FEE: ~~\$2,470~~\$2,618
  
- 2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$2,770~~\$2,936
  - b. RSF for each additional TAC source: ~~\$2,470~~\$2,618 \*
    - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
- 3. PERMIT TO OPERATE FEE: ~~\$1,234~~\$1,308
  
- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.



**G-3. FEES FOR SCHEDULE G-3, For each source in a G-3 classification, fees are:**

1. INITIAL FEE: \$16,565
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$16,865~~ \$16,883
  - b. RSF for each additional TAC source: \$16,565 \*
  - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$8,282
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

**G-4. FEES FOR SCHEDULE G-4, For each source in a G-4 classification, fees are:**

1. INITIAL FEE: \$47,335
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$47,635~~ \$47,653
  - b. RSF for each additional TAC source: \$47,335 \*
  - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$23,667
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

**G-5. FEES FOR SCHEDULE G-5, For each source in a G-5 classification, fees are:**

1. INITIAL FEE: \$24,848
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$25,148~~ \$25,166
  - b. RSF for each additional TAC source: \$24,848 \*
  - \* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: \$12,423
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

*(Amended 5/19/82; 6/5/85; 6/4/86; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE G-1**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Dipping	Asphalt Roofing or Related Materials
Calcining Kilns, excluding those processing cement, lime, or coke (see G-4 for cement, lime, or coke Calcining Kilns)	Any Materials except cement, lime, or coke
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Inorganic Materials
Chemical Manufacturing, Inorganic – Reactors with a Capacity of 1000 Gallons or more	Any Inorganic Materials
Chemical Manufacturing, Organic - Latex Dipping	Any latex materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 1000 Gallons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Processing Units with a Capacity of 5 Tons/Hour or more	Any Organic Materials
Chemical Manufacturing, Organic – Reactors with a Capacity of 1000 Gallons or more	Any Organic Materials
Compost Operations – Windrows, Static Piles, Aerated Static Piles, In-Vessel, or similar methods	Any waste materials such as yard waste, food waste, agricultural waste, mixed green waste, bio-solids, animal manures, etc.
Crushers	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Electroplating Equipment	Hexavalent Decorative Chrome with permitted capacity greater than 500,000 amp-hours per year or Hard Chrome
Foil Manufacturing – Any Converting or Rolling Lines	Any Metal or Alloy Foils
Galvanizing Equipment	Any

Equipment or Process Description	Materials Processed or Produced
Glass Manufacturing – Batching Processes including storage and weigh hoppers or bins, conveyors, and elevators	Any Dry Materials
Glass Manufacturing – Mixers	Any Dry Materials
Glass Manufacturing – Molten Glass Holding Tanks	Any molten glass
Grinders	Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials
Incinerators – Crematory	Human and/or animal remains
Incinerators – Flares	Any waste gases
Incinerators – Other (see G-2 for hazardous or municipal solid waste incinerators, see G-3 for medical or infectious waste incinerators)	Any Materials except hazardous wastes, municipal solid waste, medical or infectious waste
Incinerators – Pathological Waste (see G-3 for medical or infectious waste incinerators)	Pathological waste only
Loading and/or Unloading Operations – Bulk Plants and Bulk Terminals, excluding those loading gasoline or gasohol (see Schedule D for Bulk Plants and Terminals loading gasoline or gasohol)	Any Organic Materials except gasoline or gasohol
Petroleum Refining – Alkylation Units	Any Hydrocarbons
Petroleum Refining – Asphalt Oxidizers	Any Hydrocarbons
Petroleum Refining – Benzene Saturation Units/Plants	Any Hydrocarbons
Petroleum Refining – Catalytic Reforming Units	Any Hydrocarbons
Petroleum Refining – Chemical Treating Units including alkane, naphthenic acid, and naptha merox treating, or similar processes	Any Hydrocarbons
Petroleum Refining – Converting Units including Dimersol Plants, Hydrocarbon Splitters, or similar processes	Any Hydrocarbons
Petroleum Refining – Distillation Units, excluding crude oil units with capacity > 1000 barrels/hour (see G-3 for > 1000 barrels/hour crude distillation units)	Any Hydrocarbons
Petroleum Refining – Hydrogen Manufacturing	Hydrogen or Any Hydrocarbons

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Petroleum Refining – Hydrotreating or Hydrofining	Any Hydrocarbons
Petroleum Refining – Isomerization	Any Hydrocarbons
Petroleum Refining – MTBE Process Units/Plants	Any Hydrocarbons
Petroleum Refining – Sludge Converter	Any Petroleum Waste Materials
Petroleum Refining – Solvent Extraction	Any Hydrocarbons
Petroleum Refining – Sour Water Stripping	Any Petroleum Process or Waste Water
Petroleum Refining – Storage (enclosed)	Petroleum Coke or Coke Products
Petroleum Refining – Waste Gas Flares (not subject to Regulation 12, Rule 11)	Any Petroleum Refining Gases
Petroleum Refining – Miscellaneous Other Process Units	Any Hydrocarbons
Remediation Operations, Groundwater – Strippers	Contaminated Groundwater
Remediation Operations, Soil - Any Equipment	Contaminated Soil
Spray Dryers	Any Materials
Sterilization Equipment	Ethylene Oxide
Wastewater Treatment, Industrial – Oil-Water Separators, excluding oil-water separators at petroleum refineries (see G-2 for Petroleum Refining - Oil-Water Separators)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment and excluding strippers at petroleum refineries (see G-2 for Petroleum Refining – Strippers)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Industrial - Storage Ponds, excluding storage ponds at petroleum refineries (see G-2 for Petroleum Refining – Storage Ponds)	Wastewater from any industrial facilities except petroleum refineries
Wastewater Treatment, Municipal – Preliminary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal – Primary Treatment	Municipal Wastewater
Wastewater Treatment, Municipal – Digesters	Municipal Wastewater
Wastewater Treatment, Municipal – Sludge Handling Processes, excluding sludge incinerators (see G-2 for sludge incinerators)	Sewage Sludge

(Amended 6/4/86; 6/6/90; 5/19/99; 6/7/00; 6/2/04; 6/15/05)

**SCHEDULE G-2**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Asphalt Roofing Manufacturing – Asphalt Blowing	Asphalt Roofing or Related Materials
Asphaltic Concrete Manufacturing – Aggregate Dryers	Any Dry Materials
Asphaltic Concrete Manufacturing – Batch Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Drum Mixers	Any Asphaltic Concrete Products
Asphaltic Concrete Manufacturing – Other Mixers and/or Dryers	Any Dry Materials or Asphaltic Concrete Products
Concrete or Cement Batching Operations – Mixers	Any cement, concrete, or stone products or similar materials
Furnaces – Electric	Any Mineral or Mineral Product
Furnaces – Electric Induction	Any Mineral or Mineral Product
Furnaces – Glass Manufacturing	Soda Lime only
Furnaces – Reverberatory	Any Ores, Minerals, Metals, Alloys, or Related Materials
Incinerators – Hazardous Waste including any unit required to have a RCRA permit	Any Liquid or Solid Hazardous Wastes
Incinerators – Solid Waste, excluding units burning human/animal remains or pathological waste exclusively (see G-1 for Crematory and Pathological Waste Incinerators)	Any Solid Waste including Sewage Sludge (except human/animal remains or pathological waste)
Metal Rolling Lines, excluding foil rolling lines (see G-1 for Foil Rolling Lines)	Any Metals or Alloys
Petroleum Refining – Stockpiles (open)	Petroleum Coke or coke products only
Petroleum Refining, Wastewater Treatment – Oil-Water Separators	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment	Wastewater from petroleum refineries only
Petroleum Refining, Wastewater Treatment – Storage Ponds	Wastewater from petroleum refineries only
Pickling Lines or Tanks	Any Metals or Alloys
Sulfate Pulping Operations – All Units	Any
Sulfite Pulping Operations – All Units	Any

*(Amended June 7, 2000)*

**SCHEDULE G-3**  
(Adopted June 18, 1980)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Furnaces – Electric Arc	Any Metals or Alloys
Furnaces – Electric Induction	Any Metals or Alloys
Incinerators – Medical Waste, excluding units burning pathological waste exclusively (see G-1 for Pathological Waste Incinerators)	Any Medical or Infectious Wastes
Loading and/or Unloading Operations – Marine Berths	Any Organic Materials
Petroleum Refining – Cracking Units including hydrocrackers and excluding thermal or fluid catalytic crackers (see G-4 for Thermal Crackers and Catalytic Crackers)	Any Hydrocarbons
Petroleum Refining – Distillation Units (crude oils) including any unit with a capacity greater than 1000 barrels/hour (see G-1 for other distillation units)	Any Petroleum Crude Oils
Phosphoric Acid Manufacturing – All Units (by any process)	Phosphoric Acid

*(Amended 5/19/82; Amended and renumbered 6/6/90; Amended 6/7/00; 6/15/05; 5/2/07)*

**SCHEDULE G-4**  
(Adopted June 6, 1990)

<b>Equipment or Process Description</b>	<b>Materials Processed or Produced</b>
Acid Regeneration Units	Sulfuric or Hydrochloric Acid only
Annealing Lines (continuous only)	Metals and Alloys
Calcining Kilns (see G-1 for Calcining Kilns processing other materials)	Cement, Lime, or Coke only
Fluidized Bed Combustors	Solid Fuels only
Nitric Acid Manufacturing – Any Ammonia Oxidation Processes	Ammonia or Ammonia Compounds
Petroleum Refining - Coking Units including fluid cokers, delayed cokers, flexicokers, and coke kilns	Petroleum Coke and Coke Products
Petroleum Refining - Cracking Units including fluid catalytic crackers and thermal crackers and excluding hydrocrackers (see G-3 for Hydrocracking Units)	Any Hydrocarbons
Petroleum Refining - Sulfur Removal including any Claus process or any other process requiring caustic reactants	Any Petroleum Refining Gas
Sulfuric Acid Manufacturing – Any Chamber or Contact Process	Any Solid, Liquid or Gaseous Fuels Containing Sulfur

*(Amended June 7, 2000)*

SCHEDULE G-5

Equipment or Process Description	Materials Processed or Produced
Petroleum Refinery Flares (subject to Regulation 12, Rule 11)	Any Petroleum Vent Gas (as defined in section 12-11-210 and section 12-12-213)

*(Adopted May 2, 2007)*



**SCHEDULE H  
SEMICONDUCTOR AND RELATED OPERATIONS**  
(Adopted May 19, 1982)

All of the equipment within a semiconductor fabrication area will be grouped together and considered one source. The fee shall be as indicated:

1. INITIAL FEE:
  - a. The minimum fee per source is: ~~\$276~~\$293
  - b. The maximum fee per source is: ~~\$22,070~~\$23,394

The initial fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

  - c. SOLVENT CLEANING OPERATIONS, such as usage of:  
Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and  
Wipe Cleaning Operation (as defined in Regulation 8-30-225).  
The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):
    - i. If gross throughput is not more than 3,000 gal/yr: ~~\$276~~\$293
    - ii. If gross throughput is more than 3,000 gallons/year: ~~\$186~~\$197 per 1,000 gallon
  - d. COATING OPERATIONS, such as application of:  
Photoresist (as defined in Regulation 8-30-215); other wafer coating;  
Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219);  
and other miscellaneous solvent usage.  
The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):
    - i. If gross throughput is not more than 1,000 gal/yr: ~~\$276~~\$293
    - ii. If gross throughput is more than 1,000 gallons/year: ~~\$555~~\$588 per 1,000 gallon
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$611
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$293 \*
  - e. Maximum RSF per source is: ~~\$22,070~~\$23,394

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE:
  - a. The minimum fee per source is: ~~\$199~~\$211
  - b. The maximum fee per source is: ~~\$11,033~~\$11,695

The permit to operate fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

  - c. SOLVENT CLEANING OPERATIONS, such as usage of:  
Solvent Sinks (as defined in Regulation 8-30-214);  
Solvent Spray Stations (as defined in Regulation 8-30-221);  
Solvent Vapor Stations (as defined in Regulation 8-30-222); and

Wipe Cleaning Operation (as defined in Regulation 8-30-225).

The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 3,000 gal/yr: ~~\$199~~\$211
- ii. If gross throughput is more than 3,000 gallons/year: ~~\$93~~\$99 per 1,000 gallon

d. COATING OPERATIONS, such as application of:

Photoresist (as defined in Regulation 8-30-215); other wafer coating; Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other miscellaneous solvent usage.

The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 1,000 gal/yr: ~~\$199~~\$211
- ii. If gross throughput is more than 1,000 gallons/year: ~~\$276~~\$293 per 1,000 gallon

- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- 5. The fee for each source will be rounded to the whole dollar. Fees for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 1/9/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/20/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE I  
 DRY CLEANERS**  
 (Adopted July 6, 1983)

For dry cleaners, the fee shall be computed based on each cleaning machine, except that machines with more than one drum shall be charged based on each drum, regardless of the type or quantity of solvent, as follows:

1. INITIAL FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: ~~\$276~~\$301
  - b. If the washing or drying capacity exceeds 100 pounds: ~~\$276~~\$301 plus  
 For that portion of the capacity exceeding 100 pounds: ~~\$8.23~~\$8.97 per pound
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$301 plus initial fee
  - b. Minimum RSF for first TAC source: ~~\$576~~\$619
  - c. RSF for each additional TAC source: equal to initial fee \*
  - d. Minimum RSF per additional TAC source: ~~\$276~~\$301 \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
3. PERMIT TO OPERATE FEE FOR A DRY CLEANING MACHINE (per drum):
  - a. If the washing or drying capacity is no more than 100 pounds: ~~\$199~~\$217
  - b. If the washing or drying capacity exceeds 100 pounds: ~~\$199~~\$217 plus  
 For that portion of the capacity exceeding 100 pounds: ~~\$4.13~~\$4.50 per pound
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

*(Amended 10/17/84; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99;  
 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE K  
SOLID WASTE DISPOSAL SITES**  
(Adopted July 15, 1987)

1. INITIAL FEE:
  - a. Inactive or Closed Solid Waste Disposal Sites ~~\$1,654~~\$1,902
  - b. Active Solid Waste Disposal Sites ~~\$3,307~~\$3,803
  
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
  - a. RSF for first TAC source in application: ~~\$300~~\$318 plus initial fee
  - b. RSF for each additional TAC source: equal to initial fee \*

\* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
  
23. PERMIT TO OPERATE FEE:
  - a. Inactive or Closed Solid Waste Disposal Sites ~~\$826~~\$950
  - b. Active Solid Waste Disposal Sites ~~\$1,654~~\$1,902
  
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
  
5. Evaluation of Reports and Questionnaires:
  - a. Evaluation of Solid Waste Air Assessment Test Report as required by Health & Safety Code Section 41805.5(g) ~~\$994~~\$1,143
  - b. Inactive Site Questionnaire evaluation as required by Health & Safety Code Section 41805.5(b) ~~\$498~~\$573
  - c. Evaluation of Solid Waste Air Assessment Test report in conjunction with evaluation of Inactive Site Questionnaire as required by Health & Safety Code Section 41805.5(b) ~~\$498~~\$573
  - d. Evaluation of Initial or Amended Design Capacity Reports as required by Regulation 8, Rule 34, Section 405 ~~\$366~~\$421
  - e. Evaluation of Initial or Periodic NMOC Emission Rate Reports as required by Regulation 8, Rule 34, Sections 406 or 407 ~~\$1,048~~\$1,205
  - f. Evaluation of Closure Report as required by Regulation 8, Rule 34, Section 409 ~~\$366~~\$421
  - g. Evaluation of Annual Report as required by Regulation 8, Rule 34, Section 411 ~~\$917~~\$1,055
  
6. Fees for each source will be rounded off to the nearest dollar. The fee for sources will be rounded up or down to the nearest dollar.
  
7. For the purposes of this fee schedule, a solid waste disposal site shall be considered active, if it has accepted solid waste for disposal at any time during the previous 12 months or has plans to accept solid waste for disposal during the next 12 months.

*(Amended 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/6/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE L**  
**ASBESTOS OPERATIONS**  
 (Adopted July 6, 1988)

1. Asbestos Operations conducted at single family dwellings are subject to the following fees:
  - a. OPERATION FEE: ~~\$93~~\$101 for amounts 100 to 500 square feet or linear feet.  
~~\$343~~\$374 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
~~\$499~~\$544 for amounts 1001 square feet or liner feet to 2000 square feet or linear feet.  
~~\$686~~\$748 for amounts greater than 2000 square feet or linear feet.
  - b. Cancellation: ~~\$45~~\$49 of above amounts non-refundable, for notification processing.
  
2. Asbestos Operations, other than those conducted at single family dwellings, are subject to the following fees:
  - a. OPERATION FEE: ~~\$264~~\$288 for amounts 100 to 159 square feet or 100 to 259 linear feet or 35 cubic feet  
~~\$382~~\$416 for amounts 160 square feet or 260 linear feet to 500 square or linear feet or greater than 35 cubic feet.  
~~\$555~~\$605 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.  
~~\$818~~\$892 for amounts 1001 square feet or liner feet to 2500 square feet or linear feet.  
~~\$1,167~~\$1,272 for amounts 2501 square feet or linear feet to 5000 square feet or linear feet.  
~~\$1,602~~\$1,746 for amounts 5001 square feet or linear feet to 10000 square feet or linear feet.  
~~\$2,038~~\$2,221 for amounts greater than 10000 square feet or linear feet.
  - b. Cancellation: ~~\$126~~\$137 of above amounts non-refundable for notification processing.
  
3. Demolitions (including zero asbestos demolitions) conducted at a single-family dwelling are subject to the following fee:
  - a. OPERATION FEE: ~~\$45~~\$49
  - b. Cancellation: ~~\$45~~\$49 (100% of fee) non-refundable, for notification processing.
  
4. Demolitions (including zero asbestos demolitions) other than those conducted at a single family dwelling are subject to the following fee:
  - a. OPERATION FEE: ~~\$188~~\$205
  - b. Cancellation: ~~\$126~~\$137 of above amount non-refundable for notification processing.
  
5. Asbestos operations with less than 10 days prior notice (excluding emergencies) are subject to the following additional fee:
  - a. OPERATION FEE: ~~\$342~~\$340
  
6. Asbestos demolition operations for the purpose of fire training are exempt from fees.
  
7. Floor mastic removal using mechanical buffers and solvent is subject to the following fee:
  - a. OPERATION FEE: ~~\$188~~\$205
  - b. Cancellation: ~~\$126~~\$137 of above amount non-refundable for notification processing.

*(Amended 9/5/90; 1/5/94; 8/20/97; 10/7/98; 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07)*

**SCHEDULE M**  
**MAJOR STATIONARY SOURCE FEES**  
(Adopted June 6, 1990)

For each major stationary source emitting 50 tons per year or more of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, and/or PM<sub>10</sub>, the fee shall be based on the following:

- |    |                   |                                           |
|----|-------------------|-------------------------------------------|
| 1. | Organic Compounds | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 2. | Sulfur Oxides     | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 3. | Nitrogen Oxides   | <del>\$82.67</del> <u>\$87.63</u> per ton |
| 4. | PM <sub>10</sub>  | <del>\$82.67</del> <u>\$87.63</u> per ton |

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. In calculating the fee amount, emissions of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, or PM<sub>10</sub>, if occurring in an amount less than 50 tons per year, shall not be counted.

*(Amended 7/3/91; 6/15/94; 7/1/98; 5/9/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE N  
TOXIC INVENTORY FEES**  
(Adopted October 21, 1992)

For each stationary source emitting substances covered by California Health and Safety Code Section 44300 *et seq.*, the Air Toxics "Hot Spots" Information and Assessment Act of 1987, which have trigger levels listed in Table 2-5-1, a fee based on the weighted emissions of the facility shall be assessed based on the following formulas:

1. A fee of \$5 for each gasoline product dispensing nozzle in the facility, if the facility is a Gasoline Dispensing Facility; or
2. A fee of \$75 if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 50 weighted pounds per year and less than 1000 weighted pounds per year; or
3. A fee of \$75 +  $S_L \times (w_i - 1000)$  if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 1000 weighted pounds per year;

where the following relationships hold:

$w_i$  = facility weighted emissions for facility j; where the weighted emission for the facility shall be calculated as a sum of the individual emissions of the facility multiplied by either the Unit Risk Factor (URF) for the substance times one hundred thousand (in cubic meters/microgram) if the emission is a carcinogen, or by the reciprocal of the chronic reference exposure level (REL<sub>C</sub>) for the substance (in cubic meters/microgram) if the emission is not a carcinogen [use URF and REL<sub>C</sub> as listed in Table 2-5-1]:

$w_j$  = Facility Weighted Emission =  $\sum_{i=1}^n E_i * Q_i$  where

$n$  = number of toxic substances emitted by facility

$E_i$  = amount of substance i emitted by facility in lbs/year

$Q_i$  = URF \* 10<sup>5</sup>, if i is a carcinogen; or

$Q_i$  = [REL<sub>C</sub>]<sup>-1</sup>, if i is not a carcinogen

$F_T$  = Total amount of fees to be collected by the District to cover District and State of California AB 2588 costs as most recently adopted by the Board of Directors of the California Environmental Protection Agency, Air Resources Board, and set out in the most recently published "Amendments to the Air Toxics "Hot Spots" Fee Regulation," published by that agency.

$N_L$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 1000 weighted pounds per year.

$N_S$  = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 50 weighted pounds per year and less than 1000 weighted pounds per year.

$N_{NOZ}$  = Number of gasoline-product-dispensing nozzles in currently permitted Gasoline Dispensing Facilities.

$S_L$  = Surcharge per pound of weighted emissions for each pound in excess of 1000 weighted pounds per year, where  $S_L$  is given by the following formula:

$$S_L = \frac{F_T - (75 \times N_S) - (75 \times N_L) - (5 \times N_{NOZ})}{\sum_{j=1}^{N_L} (w_j - 1000)}$$

*(Amended 12/15/93; 6/15/05; 5/2/07)*



**SCHEDULE P**  
**MAJOR FACILITY REVIEW FEES**  
 (Adopted November 3, 1993)

1. MFR / SYNTHETIC MINOR ANNUAL FEES

Each facility, which is required to undergo major facility review in accordance with the requirements of Regulation 2, Rule 6, shall pay annual fees (1a and 1b below) for each source holding a District Permit to Operate. These fees shall be in addition to and shall be paid in conjunction with the annual renewal fees paid by the facility. However, these MFR permit fees shall not be included in the basis to calculate Alternative Emission Control Plan (bubble) or toxic air contaminant surcharges. If a major facility applies for and obtains a synthetic minor operating permit, the requirement to pay the fees in 1a and 1b shall terminate as of the date the APCO issues the synthetic minor operating permit.

a. MFR SOURCE FEE ..... ~~\$283~~\$325 per source

b. MFR EMISSIONS FEE .....~~\$11.13~~\$12.80 per ton of regulated air pollutants emitted

Each MFR facility and each synthetic minor facility shall pay an annual monitoring fee (1c below) for each pollutant measured by a District-approved continuous emission monitor or a District-approved parametric emission monitoring system.

c. MFR/SYNTHETIC MINOR MONITORING FEES~~\$2,827~~\$3,251 per monitor per pollutant

2. SYNTHETIC MINOR APPLICATION FEES

Each facility that applies for a synthetic minor operating permit or a revision to a synthetic minor operating permit shall pay application fees according to 2a and either 2b (for each source holding a District Permit to Operate) or 2c (for each source affected by the revision). If a major facility applies for a synthetic minor operating permit prior to the date on which it would become subject to the annual major facility review fee described above, the facility shall pay, in addition to the application fee, the equivalent of one year of annual fees for each source holding a District Permit to Operate.

a. SYNTHETIC MINOR FILING FEE .....~~\$394~~\$453 per application

b. SYNTHETIC MINOR INITIAL PERMIT FEE ..... ~~\$276~~\$317 per source

c. SYNTHETIC MINOR REVISION FEE .....~~\$276~~\$317 per source modified

3. MFR APPLICATION FEES

Each facility that applies for or is required to undergo: an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit or a renewal of an MFR permit shall pay, with the application and in addition to any other fees required by this regulation, the applicable fees according to 3a-h below. The fees in 3b and 3g apply to each source in the initial or renewal permit, while the fees in 3d-f apply to each source affected by the revision or reopening.

a. MFR FILING FEE .....~~\$394~~\$453 per application

b. MFR INITIAL PERMIT FEE ..... ~~\$381~~\$438 per source

c. MFR ADMINISTRATIVE AMENDMENT FEE .....~~\$112~~\$129 per application

d. MFR MINOR REVISION FEE .....~~\$559~~\$643 per source modified

e. MFR SIGNIFICANT REVISION FEE .....~~\$1,043~~\$1,199 per source modified

f. MFR REOPENING FEE .....~~\$342~~\$393 per source modified

g. MFR RENEWAL FEE ..... ~~\$166~~\$191 per source

Each facility that requests a permit shield or a revision to a permit shield under the provisions of Regulation 2, Rule 6 shall pay the following fee for each source (or group of sources, if the requirements for these sources are grouped together in a single table in the MFR permit) that is covered by the requested shield. This fee shall be paid in addition to any other applicable fees.

- h. MFR PERMIT SHIELD FEE .....~~\$588~~\$676 per shielded source or group of sources
- 4. MFR PUBLIC NOTICE FEES  
Each facility that is required to undergo a public notice related to any permit action pursuant to Regulation 2-6 shall pay the following fee upon receipt of a District invoice.  
MFR PUBLIC NOTICE FEE ..... Cost of Publication
- 5. MFR PUBLIC HEARING FEES  
If a public hearing is required for any MFR permit action, the facility shall pay the following fees upon receipt of a District invoice.
  - a. MFR PUBLIC HEARING FEE .....Cost of Public Hearing not to exceed ~~\$7,605~~\$8,746
  - b. NOTICE OF PUBLIC HEARING FEE .....Cost of distributing Notice of Public Hearing
- 6. POTENTIAL TO EMIT DEMONSTRATION FEE  
Each facility that makes a potential to emit demonstration under Regulation 2-6-312 in order to avoid the requirement for an MFR permit shall pay the following fee:
  - a. PTE DEMONSTRATION FEE ..... ~~\$675~~\$77 per source, not to exceed ~~\$6,613~~\$7,605

*(Amended 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07)*

**SCHEDULE Q  
EXCAVATION OF CONTAMINATED SOIL AND  
REMOVAL OF UNDERGROUND STORAGE TANKS**  
(Adopted January 5, 1994)

1. Persons excavating contaminated soil or removing underground storage tanks subject to the provisions of Regulation 8, Rule 40, Section 401, 402, 403 or 405 are subject to the following fee:
  - a. OPERATION FEE:       ~~\$126~~\$130

*(Amended 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07)*

**SCHEDULE R  
EQUIPMENT REGISTRATION FEES**

1. Persons operating commercial cooking equipment that are required to register equipment as required by District rules are subject to the following fees:
  - a. Conveyorized Charbroiler REGISTRATION FEE: \$360
  - b. Conveyorized Charbroiler ANNUAL RENEWAL FEE: \$100
  - c. Under-fired Charbroiler REGISTRATION FEE: \$360
  - d. Under-fired Charbroiler ANNUAL RENEWAL FEE: \$100

*(Adopted 7/6/07; Amended 12/5/07)*
  
2. Persons operating non-halogenated dry cleaning equipment that are required to register equipment as required by District rules are subject to the following fees:
  - a. Dry Cleaning Machine REGISTRATION FEE: \$180
  - b. Dry Cleaning Machine ANNUAL RENEWAL FEE: \$125
  
3. Persons operating diesel engines that are required to register equipment as required by District or State rules are subject to the following fees:
  - a. Diesel Engine REGISTRATION FEE: \$120
  - b. Diesel Engine ANNUAL RENEWAL FEE: \$80

**SCHEDULE S  
NATURALLY OCCURRING ASBESTOS OPERATIONS**

1. ASBESTOS DUST MITIGATION PLAN PROCESSING FEE:

Any person submitting an Asbestos Dust Mitigation Plan (ADMP) for review of an Naturally Occurring Asbestos (NOA) project shall pay the following fee (including NOA Discovery Notifications which would trigger an ADMP review): ~~\$225~~\$232

2. AIR MONITORING PROCESSING FEE:

NOA projects requiring an Air Monitoring component as part of the ADMP approval are subject to the following fee in addition to the ADMP fee: ~~\$2,000~~\$2,060

*(Adopted June 6, 2007)*

**SCHEDULE T**  
**GREENHOUSE GAS FEES**

For each permitted facility emitting greenhouse gases, the fee shall be based on the following:

1. Carbon Dioxide Equivalent (CDE) Emissions \$0.044 per metric ton

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. The annual emissions of each greenhouse gas (GHG) listed below shall be determined by the APCO for each permitted (i.e., non-exempt) source. For each emitted GHG, the CDE emissions shall be determined by multiplying the annual GHG emissions by the applicable Global Warming Potential (GWP) value. The GHG fee for each facility shall be based on the sum of the CDE emissions for all GHGs emitted by the facility, except that no fee shall be assessed for emissions of biogenic carbon dioxide.

**Direct Global Warming Potential Relative to Carbon Dioxide\***

<b>GHG</b>	<b>GWP**</b>
Carbon Dioxide	1
Methane	21
Nitrous Oxide	310
HCFC-22	1,500
HCFC-123	90
HCFC-124	470
HCFC-142b	1,800
HFC-23	11,700
HFC-32	650
HFC-125	2,800
HFC-134a	1,300
HFC-143a	3,800
HFC-152a	140
HFC-227ea	2,900
HFC-236fa	6,300
HFC-43-1-mee	1,300
PFC-14	6,500
PFC-116	9,200
PFC-218	7,000
PFC-318	8,700
PFC-3-1-10	7,00
PFC-5-1-14	7,400
Sulfur Hexafluoride	23,900

\* Source: Intergovernmental Panel on Climate Change (Second Assessment Report: Climate Change 1995).

\*\* GWPs compare the integrated radiative forcing over a specified period (i.e., 100 years) from a unit mass pulse emission to compare the potential climate change associated with emissions of different GHGs.



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **STAFF REPORT**

### **PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES**

DRAFT

APRIL 7, 2008

### **APPENDIX B LIST OF PUBLIC COMMENTS RECEIVED**

Commenter	Position Summary
William J, Quinn, Vice President, California Council for Environmental and Economic Balance	Opposes GHG Fee Schedule
David R. Farabee, Pillsbury Winthrop Shaw Pittman LLC, on behalf of the Western States Petroleum Association	Opposes GHG Fee Schedule
Tim Pohle, Managing Director, U.S. Environmental Affairs & Assistant General Counsel, Air Transport Association	Opposes GHG Fee Schedule
Dorothy Rothrock, Co-Chair AB 32 Implementation Group, Vice President California Manufacturers & Technology Association  Amisha Patel, Co-Chair AB 32 Implementation Group, Policy Advocate, California Chamber of Commerce	Opposes GHG Fee Schedule
Robert Webster, Chairman of the Board, San Mateo County Economic Development Association  Daniel S. Cruey, President & CEO, San Mateo County Economic Development Association	Opposes GHG Fee Schedule
Rob Neenan, Director of Regulatory Affairs, California League of Food Processors	Opposes GHG Fee Schedule
Barbara McBride, Directors, Environmental, Health and Safety, Calpine Corporation	Opposes GHG Fee Schedule
Richard Dowling Dowling Associates, Inc.	Opposes GHG Fee Schedule
Bill Medley	Opposes GHG Fee Schedule
Alex C. Smith	Opposes GHG Fee Schedule
Irvin Dawid, Member, Global Warming & Energy Committee, Loma Prieta Chapter, Sierra Club	Supports GHG Fee Schedule
Randy Schmidt Chair, Air Issues and Regulations Committee, Bay Area Clean Water Agencies	Provides comments on specific aspects of GHG Fee Schedule



Commenter	Position Summary
Joyce M. Eden and Karen Del-Compare, for West Valley Citizens Air Watch	Provides comments on specific aspects of the GHG fee proposal fee
Peter Light, Product Manager, Bloomenergy	Provides comments on specific aspects of the GHG fee proposal
Terry Steinert, Environmental Compliance Manager, Koch Carbon, LLC	Provides comments on specific aspects of the GHG fee proposal
<p>Anthony M Pelletier, PE West Region - Regional Engineer Allied Waste Industries</p> <p>Kevin H. Kondru, P.E. Manager, Environmental Services County of Orange IWMD</p> <p>Rachel Oster Legislative and Regulatory Specialist Norcal Waste Systems, Inc.</p> <p>Bill Held Director, Landfill Gas Systems Environmental Engineering and Compliance Republic Services</p> <p>Tom Reilly Regional Engineering Manager Waste Connections, Western Region</p> <p>Charles A. White, P.E. Director of Regulatory Affairs/West Waste Management</p>	Provides comments on specific aspects of GHG Fee Schedule

Commenter	Position Summary
Robert Chesnut	Supports GHG Fee Schedule
William L. Wong, Ed.D., Superintendent, Albany Unified School District	Requests two year deferral from all fee increases
Tonie Hansen	Provides comments on specific aspects of GHG Fee Schedule
Rob Simpson	Provides comments on specific aspects of GHG Fee Schedule