



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

April 1, 2009

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

Questions About an Agenda Item

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

Meeting Procedures

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

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

BOARD OF DIRECTORS' REGULAR MEETING

A G E N D A

WEDNESDAY
APRIL 1, 2009
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, Pamela Torliatt
Clerk of the Boards

PUBLIC COMMENT PERIOD

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

CONSENT CALENDAR (ITEMS 1 – 4)

Staff/Phone (415) 749-

1. Minutes of March 18, 2009

L. Harper/5073

lharper@baaqmd.gov

2. Communications

J. Broadbent/5052

jbroadbent@baaqmd.gov

Information only.

3. District Personnel on Out-of-State Business Travel

J. Broadbent/5052

jbroadbent@baaqmd.gov

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

4. Consideration of Mediated Grievance Settlement between the Air District and the Employees' Association Regarding Limited Term Employees

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider approval of mediated grievance settlement between the Air District and the Employees' Association relative to limited term employees.

COMMITTEE REPORTS AND RECOMMENDATIONS

5. Report of the **Legislative Committee Meeting** of March 23, 2009

CHAIR: T. BATES

J. Broadbent/5052

jbroadbent@baaqmd.gov

Action(s): The Legislative Committee recommends Board of Directors' approval of eleven newly introduced bill positions as listed in your packet.

COMMITTEE REPORTS AND RECOMMENDATIONS

6. Report of the **Climate Protection Committee Meeting** of March 23, 2009
CHAIR: Y. KISHIMOTO
J. Broadbent/5052
jbroadbent@baaqmd.gov

7. Report of the **Mobile Source Committee Meeting** of March 26, 2009
CHAIR: S. HAGGERTY
J. Broadbent/5052
jbroadbent@baaqmd.gov

Action(s): The Committee may recommend Board of Directors' approval of the following:

- A) *The proposed Fiscal Year 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment A;*
- B) *A shift to an ongoing-call for TFCA Regional Fund applications; and*
- C) *The TFCA Regional Fund set-asides listed below. Any monies not spent in these categories within 12 months will revert back to the TFCA Regional Fund for re-allocation:*
 - Up to \$4 Million for shuttles and rideshare projects,*
 - Up to \$2 Million for vehicle-based advanced technology demonstration projects, and*
 - Up to \$750,000 for new alternative-fuel/hybrid, heavy-duty trucks in low-mileage, idling service.*
- D) *Reserving up to \$2 million in Mobile Source Incentive Funds to match \$2 million in California Air Resources Board Funding to establish a Carl Moyer Voucher Incentive Program.*

8. Report of the **Budget and Finance Committee Meeting** of March 30, 2009
CHAIR: C. DALY
J. Broadbent/5052
jbroadbent@baaqmd.gov

Action(s): The Committee may recommend that the Board of Directors' amend the FY 2008/2009 Budget by increasing the Section 103 Environmental Protection Agency Grant Revenue by \$113,908, and correspondingly increase the capital equipment Budget for the Laboratory (Program 803) and authorize the Executive Officer/APCO to issue a purchase order for the instrumentation required by the grant.

PRESENTATION

9. Overview of 2008/2009 PM Season
J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will provide an overview of the 2008/2009 PM season.

10. Update on Port of Oakland Maritime Air Quality Improvement Plan (MAQIP)
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will receive an update on the Port of Oakland's MAQIP and may consider revisiting the Air District's position regarding the MAQIP.

CLOSED SESSION

11. Public Employee Performance Evaluation (Government Code Section 54957 and 54957.6)

Pursuant to Government Code Section 54957 and 54957.6, the Committee will meet in closed session to conduct a performance evaluation of the Executive Officer/APCO.

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, April 15, 2009 - 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

- 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.
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the Air District's website (www.baaqmd.gov) at that time.

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

EXECUTIVE OFFICE:
MONTHLY CALENDAR OF DISTRICT MEETINGS

MARCH 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Budget & Finance Committee <i>(Standing Committee Meeting Date Under Consideration)</i>	Monday	30	9:30 a.m.	4 th Floor Conf. Room

APRIL 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	1	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday every other Month)</i>	Thursday	2	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting	Wednesday	8	9:00 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday of each Month)</i> TO BE RESCHEDULED	Thursday	9	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i> TO BE RESCHEDULED	Thursday	9	Immediately Following Legislative Cme. Meeting	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	15	9:45 a.m.	Board Room
Board of Directors Stationary Source Committee <i>(Meets 3rd Monday Quarterly)</i>	Monday	20	9:30 a.m.	Board Room
Board of Directors Mobile Source Committee <i>– (Meets 4th Thursday of each Month)</i>	Thursday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Standing Committee Meeting Date Under Consideration)</i>	Wednesday	29	9:30 a.m.	4 th Floor Conf. Room

MAY 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	6	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday every other Month)</i>	Thursday	7	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting	Wednesday	13	9:00 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday of each Month)</i>	Thursday	14	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	14	Immediately Following Legislative Cme. Meeting	4 th Floor Conf. Room
Joint Policy Committee	Friday	15	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	20	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>– (Meets 4th Thursday of each Month)</i>	Thursday	28	9:30 a.m.	4 th Floor Conf. Room

JL – 3/26/09 (1:54 p.m.)
P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2009

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Regular Board of Directors' meeting of March 18, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the March 18, 2009 Regular Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

Board of Directors' Regular Meeting
March 18, 2009

DRAFT MINUTES

Call To Order: Chairperson Pamela Torliatt called the meeting to order at 9:50 a.m.

Roll Call: Chairperson Pamela Torliatt, Vice Chairperson Brad Wagenknecht, Secretary Tom Bates, Chris Daly, Dan Dunnigan, Susan Garner, John Gioia, Carole Groom, Jennifer Hosterman, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, Michael Shimansky, James Spering, Gayle Uilkema, Ken Yeager, Shirlee Zane

Absent: Harold Brown and Scott Haggerty

Pledge of Allegiance: Brian Bateman led the Pledge of Allegiance.

Oath of Office: Director Eric Mar was given the Oath of Office and welcomed by the Board of Directors

Public Comments: None

Consent Calendar Items 1-5:

Approval of Minutes of March 4, 2009;
Communications;
District Personnel on Out-of-State Business Travel;
Referral of Proposed Budget for Fiscal Year Ending 2010 to the Budget and Finance Committee;
Consider Authorization of Executive Officer/APCO to Enter into Contract with Global Gourmet Catering.

Board Action: Director Wagenknecht moved to approve Consent Calendar Items 1-5; seconded by Director Ross; carried unanimously without opposition.

Committee Reports:

Report 6. Ad Hoc Committee on Port Emissions Meeting

March 12, 2009

Report given by Chairperson N. Miley

January 22, 2009 Committee minutes approved.

Discussion/Actions:

- Received update on recent meeting of Port of Oakland Commissioners and Air District Board Members;
- Received update on the Air District Truck Retrofit Program and considered a recommendation to approve expenditure of \$5 million in TFCA funds to retrofit trucks without matching funds from the Port of Oakland or Air Resources Board (ARB);
- Considered Adoption of Resolution to the Port of Oakland Opposing its Maritime Air Quality Improvement Plan unless amended to include recommendations as outlined in the Resolution;
- Received a presentation on preliminary plans for the Air District to begin enforcement of California Air Resources Board (CARB) mobile source regulations in CARE impacted areas, with special focus on the Port of Oakland and West Oakland.

Next Ad Hoc Committee Meeting: At the Call of the Chair

Chairperson Remarks:

- Meeting held on March 16, 2009 with Chairperson Torliatt, Committee Chair Miley, Commissioner McClure, and Executive Officer/APCO Jack Broadbent;
- Port of Commissioners met on March 17, 2009--discussed and agreed to reverse prior action to expend the \$2 million provided to the Air District for retrofit of trucks. Request to be considered for approval at April 7th Port Board of Commissioners Meeting.

Public Comments:

Richard Sinkoff, Port of Oakland, thanked Air District Directors and staff for working with Port to resolve issues; expects that Port Board of Commissioners will reinstate \$2 million at upcoming meeting and voiced need to work on remaining MAQIP issues.

Brad Edgar, CLEAIRE, discussed company's readiness to retrofit trucks.

Board Action: Director Miley moved that the Board of Directors approve the report of the Ad Hoc Committee on Port Emissions; and recommended Board of Directors' adoption of Resolution Urging the Board of Port Commissioners for the City of Oakland to incorporate specific actions in the proposed Maritime Air Quality Improvement Program; Director Gioia seconded the motion; carried unanimously without objection.

Report 7. Executive Committee Meeting

March 16, 2009

Report given by Chairperson P. Torliatt

Actions:

- December 5, 2008 Committee minutes approved.
- Received Quarterly Report of the Hearing Board – October 2008 – December 2008;
- Discussed and considered establishing Ad Hoc Committee on Capital Facilities to review:
 - Options for increasing building energy efficiency;
 - Office space needs;
 - District headquarters location;
 - Funding mechanisms for leasing, purchasing or constructing a new facility; and
 - Options for use of the existing building.
- Seek additional members for Ad Hoc Committee on Capital Facilities;
- Received Production System Update;
- Received Air District CEQA Guidelines Update;
- Received Air District Strategic Vision Update.

Next Executive Committee meeting: At the Call of the Chair

Board Action: Chairperson Torliatt moved that the Board of Directors approve the report and recommendations of the Executive Committee; Director Kishimoto seconded the motion; carried unanimously without objection.

CLOSED SESSION

The Board of Directors adjourned in Closed Session at 10:30 a.m.

Report 8. Personnel Committee
March 6, 2009

- Public Employee Performance Evaluations – Government Code Section 54957 and 54957.6
- Next Personnel Committee Meeting: At the Call of the Chair

OPEN SESSION

The Board of Directors convened in Open Session at 10:38 a.m.; no reportable action taken in Closed Session.

OTHER BUSINESS:

Report of Executive Officer/APCO:

- Steven Chin, newly elected President of the Employees Association, was introduced and welcomed by the Board.

Gas Station Enhanced Vapor Recovery (EVR) Deadline of April 1, 2009 - Staff Presentation: Director of Compliance and Enforcement Kelly Wee

EVR Phase II – April 1, 2009 Deadline:

- Requires all gas stations with underground tanks to upgrade to new hanging hardware and new tank pressure management system;
- Phase I Controls – April 1, 2005 (Completed);
- ORVR Controls – March 2006 (Completed);
- Phase II Controls – April 1, 2009:
 - 2,000 gas stations
 - 1,400 District permit applications for upgrade
 - 670 Completed
 - 550 No permit application
- In-Station Diagnostics (ISD) Monitoring/Instrumentation:
 - September 1, 2009 (large stations)
 - September 1, 2010 (mid-size stations)

Enforcement Strategy:

- Reasonable and Measured:
 - District will enforce April 1 deadline
 - Will work with non-complying gas stations
 - Compliance and Settlement Agreements
 - Compliance Schedule to attain compliance
 - Penalties – tiered for station size and circumstances; fair to complying stations
- Station Tag-out reserved for most egregious violators

Board Discussion:

- Hosterman/Shimansky: Questioned whether there was a lack of installers and local permitting processes were hampering compliance;
- Zane: Confirmed that penalties for station owners - \$2,000 to \$4,000 - Eventual tag-out for non-compliance;
- Yeager: Many station owners concerned and State attempting to extend April 1st compliance deadline and asked for a definite dollar amount to be set for penalties;
- Bates: Questioned cost to install station equipment;
- Garner: Questioned differences between prioritizing major and non-major installations' application permits.

Staff Response/Discussion:

- Station owners are meeting challenges;
- There are many contracting firms, weekend work and southern California contractors available to work on installations in Bay Area;
- The ARB has control over extending deadline;
- District Legal and Enforcement staff working with station owners to achieve compliance and secure compliance agreements;
- Cost to install depends on station size – from \$17,000 to \$85,000;

Chairperson Torliatt's Report:

- Reported on meeting with staff and Board Members with Port Commissioner McClure;
- Encouraged attendance to the A&WMA Conference - June 16-19, 2009;
- Encouraged attendance to Climate Summit - May 4, 2009

Board Comments:

- Bates: Reminded Form 700 Statement of Economic Interests due April 1, 2009; Board Member response needed for Legislative Committee Survey. Board requested survey be re-emailed.

Time and Place of Next Meeting: 9:45 a.m., Wednesday, April 1, 2009
939 Ellis Street, San Francisco, CA 94109

Adjournment: Meeting adjourned at 11:03 a.m.

Lisa Harper
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 25, 2009

Re: Board Communications Received from March 18, 2009 through March 31, 2009

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from March 18, 2009 through March 31, 2009, if any, will be at each Board member's place at the April 1, 2009, Regular Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 25, 2009

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

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

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

The out-of-state business travel summarized below covers the period from March 1 – March 31, 2009. Out-of-state travel is reported in the month following travel completion.

DISCUSSION

Jeffrey McKay, DAPCO, attended the Microsoft Public Sector CIO Summit in Redmond, WA, March 3 – 5, 2009.

John Chiladakis, Director, Information Services, attended the Microsoft Public Sector CIO Summit in Redmond, WA, March 3 – 5, 2009.

Tony Gambardella, Supervising AQ Specialist, Attended AFS Conference in Orlando, Florida March 16 – 19, 2009

Magen Harris, AQ Specialist, Attended AFS Conference in Orlando, Florida March 16 – 19, 2009

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Linda J. Serdahl, CPA, CFE
Reviewed by: Jeffrey M. McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2009

Re: Consideration of Mediated Grievance Settlement between the District and
the Employees' Association Regarding Limited Term Employees

RECOMMENDATION

Approve the Mediated Settlement between the Air District and the Employees' Association (EA) dated February 23, 2009 regarding limited term employees.

BACKGROUND

The EA filed a grievance on June 18, 2008 stating that the District violated MOU Section 16.02 Contracting Out, by seeking to contract employees through an outside agency to perform bargaining unit work relative to the I-Bond program. In August 2008, the District signed a contract with TIAX, LLC to perform work on the I-Bond program because of the tight time constraints set by CARB and because TIAX had already performed similar work in southern California. The contract with TIAX ends April 30, 2009.

DISCUSSION

The District and the EA met and agreed to a mediated settlement, subject to Board approval, to settle the I-Bond grievance in its entirety. If approved, the District and the EA agree to the following:

- The District shall create a limited term employment category (non-supervisory personnel only) to perform work necessitated by the I-Bond program. The EA agrees to flexibility in hiring for these I-Bond limited term appointments by waiving certain MOU sections.
- Such Limited Term employees shall be represented by the Employees' Association
- The District shall consider qualified regular full-time employees prior to candidates from an open recruitment.
- Contract employees shall not be used for the I-Bond program after April 30, 2009.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The District agrees to pay the EA \$320.00.

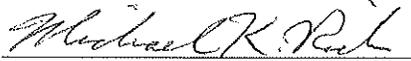
Respectfully Submitted,

Jack P. Broadbent
Executive Officer/APCO

Tentative Agreement Between
Bay Area Air Quality Management District and
Bay Area Air Quality Management District Employees' Association, Inc.
February 23, 2009

The following agreement settles the I-Bond grievance in its entirety. The agreement is not precedent setting and is subject to Employee Association, APCO and District Board approval. The parties agree to the following:

1. A category of limited term appointments shall be established to perform work necessitated by the I-Bond grant program, or to backfill vacancies* created when District employees accept such limited term appointments.
 - a. "Limited Term" is defined as employment that is paid for by I-Bond funds and is not to exceed the duration of the I-Bond grant funding.
 - b. When I-Bond funding terminates, either for an individual position or the program, limited term appointments associated with that funding shall terminate. Employees in limited term positions are not subject to Article 10 of the collective bargaining agreement.
 - c. Limited term employees shall be considered employees represented by the Bay Area Quality Management District Employees' Association, Inc.
 - d. Limited term employees shall be limited to non-supervisory positions.
 - e. This agreement is not intended to prohibit the District from hiring full-time regular employees for any purpose.
2. For I-Bond limited term appointments only, a separate promotional recruitment process may run concurrent with an open recruitment process.
 - a. The Association waives Article 16.01 Sections 8 A, B and C of the collective bargaining agreement for these I-Bond limited term appointments only.
 - b. Qualified regular full-time employees shall be considered prior to consideration of candidates from an open recruitment.
3. Regular full-time employees of the Bay Area Air Quality Management District who are hired into an I-Bond limited term position shall have the right to return to her/his regular full-time position when I-Bond funding terminates.
4. Contract employees shall not be used for I-Bond projects after April 30, 2009 unless otherwise agreed to by the parties. The Association shall not unreasonably withhold agreement. Disputes regarding application of this provision will be subject to expedited binding arbitration, using a pre-determined list of arbitrators; selection from the list will be based on the first available arbitrator. The date of the arbitration shall not exceed 30 days from the date of request. Arbitration decisions pursuant to this provision will be issued at the conclusion of the arbitration hearing.
5. The District agrees to pay the Association \$320.00.


FOR THE DISTRICT


FOR THE EMPLOYEES' ASSOCIATION

2-23-09
DATE

2/23/09
DATE

* Example: An Air Quality Technician accepts an appointment as a Limited Term Administrative Analyst to perform I-Bond work; the District may then hire a Limited Term Air Quality Technician to backfill.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2009

Re: Report of the Legislative Committee Meeting of March 23, 2009

RECOMMENDED ACTIONS

The Legislative Committee recommends Board of Directors' approval of the following positions on bills:

BILL	AUTHOR	DESCRIPTION	POSITION
AB 28	Jeffries	Prohibits air districts from restricting use of public agency natural gas engines to pump water	OPPOSE
AB 118	Logue	Repeals California Global Warming Solutions Act of 2006	OPPOSE
AB 318	Emmerson	Smog check amnesty cleanup (fixing last year's bill)	SUPPORT
AB 859	Jones	Annual smog inspection of older vehicles	SUPPORT
AB 892	Furutani	Allows Prop 1B Goods Movement Emission Reduction Program funds to be reallocated when a project is no longer feasible	SUPPORT
AB 1135	Skinner	VMT data collection at time of registration	SUPPORT
AB 1186	Blumenfield	Requires non-residential building lessors to separately list parking costs in the lease agreement	NEUTRAL, UNLESS AMENDED
SB 435	Pavley	Adds post-2000 motorcycles to smog check program	SUPPORT
SB 554	Hollingsworth	Prohibits air districts from restricting the installation or use of wood-burning equipment	OPPOSE
SB 632	Lowenthal	Requires container ports to assess and report their infrastructure and air quality needs	SUPPORT
SB 728	Lowenthal	Imposes civil penalty for violation of parking cashout law, and allows air districts to impose additional penalties and compliance mechanisms	SUPPORT

BACKGROUND

The Legislative Committee met on Monday, March 23, 2009. Staff presented bills of air quality significance, and the Committee discussed position recommendations to the Board.

The Committee also discussed survey results from a poll conducted on Board size and composition, and requested staff to re-poll the Board as to Option 3 and to include additional proposals from Board Members.

Attached are staff reports presented in the Legislative Committee packet.

Committee Chair Tom Bates will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

There would be a minor fiscal savings to the Air District if the Board was reduced in size.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Mary Ann Goodley

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2009

Re: Consideration of New Bills and Corresponding Agency Positions

RECOMMENDED ACTION:

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

DISCUSSION

The bill introduction deadline this year was February 27th, and California's 120 legislators have responded with close to 2,500 new bills. Given the State's financial situation, the legislative leaders had urged restraint on their members, and thus the total number of introduced bills is lower than it has been in recent years. On the other hand, air quality appears to be a particularly popular subject area for legislation this year. Staff have prepared the attached list of air quality measures, and can answer questions from the Committee about these bills. In addition to the listed bills, there are a very large number of measures dealing with the renewable portfolio standard, renewable energy production generally, and green technology and jobs.

Of the listed bills, staff have selected those presented below for more extensive discussion by the Committee.

ANALYSES

AB 28 is authored by Assemblymember Kevin Jeffries (R-Riverside). It would prohibit air districts from restricting the use of natural gas engines used to pump water. Many water districts use such engines to move water between storage facilities or from pumping stations. Such stationary engines are subject to permit by the local air district. The author, and the sponsoring water districts, are concerned about some air district regulations, particularly in the South Coast, that would require some of these engines to be electric. While natural gas engines generally offer significant environmental benefits compared to diesel engines, electric engines are generally preferable from an emissions perspective. Staff recommend an "**Oppose**" position on this bill, because of its arbitrary limitation of our ability to call for stringent emissions control standards.

AB 118 is authored by Assemblymember Dan Logue (R-Chico). It would repeal the California Global Warming Solutions Act of 2006, commonly called AB 32. The measure does not state a rationale for the repeal. However, some comments by the

Assemblymember at an Assembly Natural Resources Committee hearing on March 9th on the implementation of AB 32 can be used to surmise such a rationale. Assemblymember Logue expressed his belief that the current economic climate was not foreseen in 2006 when AB 32 was adopted. Furthermore, the poor economic climate means that costly regulations on issues that have not been proven to be problems are particularly untimely. Staff note that the District supported AB 32, and are thus recommending an “**Oppose**” position on this measure.

AB 318 is authored by Assemblymember Bill Emmerson (R-Redlands). It deals with motorists who have registered their vehicles incorrectly, most of whom have done so to avoid California’s smog check program. An Attorney General investigation into fraudulent registrations uncovered a large number of vehicles that had their emissions controls tampered with, and that these vehicles were being registered with incorrect model years to avoid all smog inspections. Last year, the same author passed a measure, after amending the bill to address all concerns expressed by the District, to set up an amnesty program for these vehicles. The conditions for receiving amnesty are that the vehicle owners are required to pay all back registration fees and taxes they should have paid, and that they meet current smog standards on these vehicles. This amnesty program thus has the potential of transforming gross emitters into very clean vehicles, and would be a statewide air quality benefit. This year’s measure would simply clarify that all the costs of the smog inspection required for amnesty are to be borne by the vehicle’s owner. Staff are recommending a “**Support**” position on this measure, which is consistent with the ‘polluter pays’ principle and the intent of last year’s amnesty bill.

AB 859 is authored by Assemblymember Dave Jones (D-Sacramento). It is identical to AB 616 (from the same author) in the last session, which the District supported. This bill is sponsored by the Sacramento Metropolitan Air Quality Management District. It would implement a suggestion from the Inspection and Maintenance Review Committee, who are appointed by the Governor to advise the Legislature on California’s smog check program. Their analysis indicates that this measure would result in reductions of roughly 20 tons of ozone precursors (primarily volatile organic compounds) daily. Currently, cars in California that are subject to the inspection are required to be smogged every other year, or at the time they are sold. Thus, if a vehicle’s emissions are malfunctioning, it can be two years before the owner realizes they have a problem. AB 859 would require that older vehicles that are subject to the program be inspected every year. The existing Consumer Assistance Program, designed to offset the cost to low-income motorists of repairing faulty vehicles, would continue to apply to these vehicles. Staff recommend a “**Support**” position.

AB 892, authored by Warren Furutani (D-Long Beach), deals with the funding air districts distribute from Proposition 1B’s Goods Movement Emission Reduction Program. Specifically, it fixes an unintended consequence of how the proposition was drafted. Generally, these funds are used to accelerate the cleanup of diesel engines used in goods distribution. Air districts award funding to cost-effective projects with significant air quality benefits. Currently, if a project sponsor has to abandon a project (for example, if they are unable to obtain particulate filters promised by an emissions controls manufacturer), the funding reverts to the State’s general fund, and no emission reductions are achieved. This bill simply allows such funding to go to another emission reduction project instead. This bill was drafted by air districts, working together through

the California Air Pollution Control Officers Association. Staff recommend a “**Support**” position.

AB 1135 is authored by Nancy Skinner (D-Berkeley). It simply would have vehicle owners report their odometer reading to the Department of Motor Vehicles on their annual registration paperwork. Last year, the District supported SB 375 (Steinberg), which essentially sets greenhouse gas targets for the different regions of the state, and requires regions to adopt a Sustainable Communities Strategy to achieve these targets. These targets are based on the vehicle miles traveled (VMT) in the region, although currently no comprehensive, consistent VMT database exists. The Metropolitan Transportation Commission has already adopted a ‘Support in Concept’ position on this bill, and sees it as necessary for consistent SB 375 implementation. This bill would create a statewide annually updated VMT database, allowing regions to track changes in vehicle use and helping them finetune their Sustainable Communities Strategy.

Because roughly 40% of total greenhouse gas emissions are tied to transportation, the bill will also allow the Air Resources Board (ARB) to more accurately assess how it is doing with our AB 32 goals. It also will provide better inventory data for the District as we track motor vehicle emissions and their impacts on the region’s air quality. Finally, improved VMT data has long been sought by the regional transportation planning agencies as they use this data in their travel planning process and models. Staff note that the bill is drafted to protect individual privacy by not linking vehicle owners’ names to their VMT data. Staff recommend a ‘**Support**’ position.

AB 1186 is authored by Bob Blumenfield (D-Van Nuys). It would close a loophole that has long made California’s parking cashout law relatively ineffective. The bill would specifically require that those who lease larger nonresidential buildings and associated parking separate the cost of the building from the parking in the lease. This would be beneficial to air quality primarily because of a state law passed roughly 15 years ago. The existing law applies only to large employers who lease parking, offer that parking to their employees without charge, and who can reduce the amount of parking they lease without penalty. For this rather narrow set of employers (perhaps only 12% of all large employers, according to an earlier study by the Legislative Analyst’s Office), the existing parking cashout law requires them to offer their employees either the parking or its cash value. Not surprisingly, many employees choose the cash option, and switch to carpool or transit, cutting emissions from driving alone. Because today many property owners do not differentiate the parking costs from building costs in their leases, the law only applies to roughly 3% of large employers. Thus, this bill should increase parking cashout emissions roughly four-fold. Staff recommend a ‘**Support**’ position.

SB 435 is authored by Senator Fran Pavley (D-Agoura Hills). It would include motorcycles manufactured after 2000 in the Smog Check program. The ARB has estimated that this would result in statewide emissions reductions of roughly five tons of ozone precursors per day. Staff note that this estimate was done prior to the significant fuel price increases of the last several years. These price increases sharply increased motorcycle useage and sales. Thus, staff believe that this estimate will be revised upward to reflect substantially higher motorcycle emissions. Surprisingly, motorcycles have much less stringent emissions controls than motor vehicles. Their emissions per mile driven are typically an order of magnitude more than the emissions of a passenger car. ARB’s mobile source enforcement program has also uncovered very high rates of

tampering with emissions control equipment in the motorcycle community. While some of the emissions tampering is done to improve the bikes' performance, some is done to increase the noise the bikes make. Thus, this bill would cut both noise pollution and air pollution. Motorcycles can not be tested on the dynamometers, or treadmills, found in Smog Check's enhanced inspection areas. They can be visually checked, to ensure that emissions control hardware is in place, and they can have tailpipe testing. The bill would have the Bureau of Automotive Repair, in conjunction with the ARB, determine the best testing protocol for motorcycles. Staff recommend a **'Support'** position for this bill.

SB 554 is authored by Senator Dennis Hollingsworth (R-Murrietta). This short, simple bill would prohibit air districts from restricting in any way the operation or installation of wood-burning equipment. It would repeal the woodsmoke rules across the State, including the rule in this district. Because staff believe that the fine particles emitted from woodburning are a serious public health issue, staff recommend an **'Oppose'** position on this measure.

SB 632 is authored by Senator Alan Lowenthal (D-Long Beach), and applies to the three container ports in the State. It would require these ports (Los Angeles, Long Beach, and Oakland) to assess their infrastructure and air quality improvement needs. They would be required to provide these reports to the Legislature by July 1, 2010. The reports would have to include funding options for addressing these needs. Staff recommend a **'Support'** position on this bill.

SB 728 is also authored by Senator Lowenthal, and is another bill on the subject of parking cashout. Historically, the ARB has not done much in the way of outreach to employers to inform them of their obligations under the existing parking cashout legislation, or much in the way of enforcement. This bill would clarify that those who violate the law are subject to ARB's civil penalty authority. Additionally, it would allow interested cities, counties, and air districts to pursue additional compliance strategies and penalties to help ensure that the existing law is complied with. Staff believe this bill would be a nice complement to AB 1186, and recommend a **'Support'** position.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean R. Roggenkamp

ASSEMBLY BILL

No. 28

Introduced by Assembly Member Jeffries

December 1, 2008

An act to add Section 40722 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 28, as introduced, Jeffries. Natural gas engines: water pumps.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

This bill would prohibit air pollution control districts and air quality management districts from restricting the use of engines powered by natural gas by a city, county, or special district, including a water district, to operate water pumps.

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

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

- 1 SECTION 1. Section 40722 is added to the Health and Safety
- 2 Code, to read:

- 1 40722. A district shall not restrict the use of engines powered
- 2 by natural gas by a city, county, or special district, including a
- 3 water district, to operate water pumps.

O

ASSEMBLY BILL

No. 118

Introduced by Assembly Member Logue

January 15, 2009

An act to repeal Division 25.5 (commencing with Section 38500) of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 118, as introduced, Logue. California Global Warming Solutions Act of 2006.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions levels in 1990 to be achieved by 2020. The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions. The state board is required by January 1, 2011, to adopt greenhouse gas emissions limits and emission reduction measures by regulation to achieve the prescribed emission reductions.

This bill would repeal the California Global Warming Solutions Act of 2006.

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

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

- 1 SECTION 1. Division 25.5 (commencing with Section 38500)
- 2 of the Health and Safety Code is repealed.

O

ASSEMBLY BILL

No. 318

Introduced by Assembly Member Emmerson

February 18, 2009

An act to amend Section 4750.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 318, as introduced, Emmerson. Bureau of Automotive Repair: inspection fees.

Existing law requires the Department of Motor Vehicles to develop and administer a vehicle registration amnesty program, which to be in effect from January 1, 2010, until December 31, 2010, for vehicles that were previously registered or classified incorrectly and that, pursuant to the program, become correctly registered. Existing law requires the department to grant amnesty to a vehicle owner if specified conditions are met by December 31, 2010.

This bill would authorize the Bureau of Automotive Repair to charge a vehicle owner who participates in this amnesty program a fee for each referee station inspection conducted pursuant to these provisions. The bill would require that the fee be sufficient to cover the actual costs of performing the inspection.

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

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

- 1 SECTION 1. Section 4750.1 of the Vehicle Code is amended
2 to read:

1 4750.1. (a) If the department receives an application for
2 registration of a specially constructed passenger vehicle or pickup
3 truck after it has registered 500 specially constructed vehicles
4 during that calendar year pursuant to Section 44017.4 of the Health
5 and Safety Code, and the vehicle has not been previously
6 registered, the vehicle shall be assigned the same model-year as
7 the calendar year in which the application is submitted, for
8 purposes of determining emissions inspection requirements for
9 the vehicle.

10 (b) (1) If the department receives an application for registration
11 of a specially constructed passenger vehicle or pickup truck that
12 has been previously registered after it has registered 500 specially
13 constructed vehicles during that calendar year pursuant to Section
14 44017.4 of the Health and Safety Code, and the application requests
15 a model-year determination different from the model-year assigned
16 in the previous registration, the application for registration shall
17 be denied and the vehicle owner is subject to the emission control
18 and inspection requirements applicable to the model-year assigned
19 in the previous registration. For

20 (c) (1) ~~For a vehicle that participated~~ *participating* in the
21 amnesty program *in effect from January 1, 2010, until December*
22 *31, 2010*, pursuant to Section 9565, the model-year of the previous
23 registration shall be the calendar year of the year in which the
24 vehicle owner applied for amnesty. However, a denial of an
25 application for registration issued pursuant to this subdivision does
26 not preclude the vehicle owner from applying for a different
27 model-year determination and application for registration under
28 Section 44017.4 of the Health and Safety Code in a subsequent
29 calendar year.

30 (2) *The Bureau of Automotive Repair may charge the vehicle*
31 *owner who applies to participate in the amnesty program a fee for*
32 *each referee station inspection conducted pursuant to Section*
33 *9565. The fee shall be sufficient to cover the actual costs of*
34 *performing the inspection.*

ASSEMBLY BILL

No. 859

Introduced by Assembly Member Jones

February 26, 2009

An act to amend Sections 44062.1 and 44094 of, and to add Section 44012.7 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 859, as introduced, Jones. Smog check: annual inspection: repair assistance program.

(1) Existing law establishes a motor vehicle inspection and maintenance (smog check) program, developed, implemented, and administered by the Department of Consumer Affairs. The smog check program provides for the inspection of a motor vehicle, among other circumstances, upon its registration, upon transfer of ownership, and for vehicles registered in certain areas of the state, biennially. Some motor vehicles, including any motor vehicle manufactured prior to the 1976 model year, are exempt from biennial inspection. The department is required to charge a fee to a smog check station for each motor vehicle inspection, as provided. Violations of the smog check requirements constitute a crime.

Existing law creates the High Polluter Repair or Removal Account, and makes available, upon appropriation by the Legislature, all money in the account to the State Air Resources Board and the department to establish and implement a program for the repair or replacement of high polluting motor vehicles.

This bill would require the department to incorporate the annual inspection of motor vehicles that are models which are 15 years old or greater into the motor vehicle inspection and maintenance program by

January 1, 2010, and would require funds generated through additional inspection fees to be deposited into the High Polluter Repair or Removal Account.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The bill would exempt all vehicles not subject to biennial inspection, and vehicles or classes of vehicles determined by the department to be likely to pass the annual inspection.

(2) Existing law provides for a repair assistance program available to an individual whose maximum income level is 185% of the federal poverty level and who is the owner of a motor vehicle that has failed a smog check inspection or received a notice to correct, or an individual who has failed a smog check inspection and is directed to a test-only facility. Existing law provides that the department may increase its contribution toward the repair of a motor vehicle in excess of \$450, if the department determines that the expenditure is cost effective.

This bill would increase this amount to \$750. The bill would make the repair assistance program only available to low-income individuals, and would change the maximum income level to 300% of the federal poverty level. The bill would make other conforming changes, and delete obsolete provisions of law.

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

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

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

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

- 1 SECTION 1. Section 44012.7 is added to the Health and Safety
- 2 Code, to read:
- 3 44012.7. (a) The department shall incorporate the annual
- 4 inspection of motor vehicles that are models which are 15 years
- 5 old or greater into the motor vehicle inspection and maintenance
- 6 program by January 1, 2010.
- 7 (b) All funds generated through additional inspection fees shall
- 8 be deposited into the High Polluter Repair or Removal Account
- 9 created by Section 44091.

1 (c) The department shall develop a vehicle emissions profile
2 that identifies vehicles or classes of vehicles that are likely to pass
3 annual inspection. The department shall revise this profile annually.

4 (d) Both of the following are exempt from the annual inspection:

5 (1) All vehicles not subject to biennial inspection, including
6 vehicles exempted by Section 44011.

7 (2) All vehicles or classes of vehicles determined by the
8 department to be likely to pass the annual inspection pursuant to
9 subdivision (c).

10 SEC. 2. Section 44062.1 of the Health and Safety Code is
11 amended to read:

12 44062.1. (a) The department shall offer a repair assistance
13 program through entities authorized to perform referee functions.

14 ~~(b) (1) The repair assistance program shall be available to the~~
15 ~~following eligible individuals:~~

16 ~~(A) An individual~~

17 ~~(b) (1) The repair assistance program shall be available to an~~
18 ~~individual who has a maximum income level of 200 percent of the~~
19 ~~federal poverty level, as published quarterly in the Federal Register~~
20 ~~by the Department of Health and Human Services is a low-income~~
21 ~~motor vehicle owner, and who is either or both of the following:~~

22 ~~(i)~~

23 ~~(A) The owner of a motor vehicle that has failed a smog check~~
24 ~~inspection.~~

25 ~~(ii)~~

26 ~~(B) The owner of a motor vehicle who was issued a notice to~~
27 ~~correct for an alleged violation of Section 27153 or 27153.5 of the~~
28 ~~Vehicle Code involving that vehicle, if the vehicle subject to that~~
29 ~~notice has failed a smog check inspection subsequent to receiving~~
30 ~~the notice.~~

31 ~~On and after January 1, 2009, the maximum income level~~
32 ~~prescribed for this subparagraph shall be set at 185 percent of the~~
33 ~~federal poverty level, as published quarterly in the Federal Register~~
34 ~~by the United States Department of Health and Human Services.~~

35 ~~(B) An individual who is the owner of a motor vehicle that has~~
36 ~~failed a smog check inspection and is directed to a test-only facility~~
37 ~~pursuant to Section 44010.5 or 44014.7. If the department~~
38 ~~determines that applications for repair assistance exceed the amount~~
39 ~~of funds available, to the maximum extent possible, applications~~

1 from low-income motor vehicle owners shall be given priority
2 over other applications.

3 (2) The department shall offer repair cost assistance, funded by
4 the High Polluter Repair or Removal Account in the Vehicle
5 Inspection and Repair Fund created pursuant to subdivision (a) of
6 Section 44091, to individuals based on the cost-effectiveness and
7 air quality benefit of the needed repair. Repair assistance may
8 include retesting costs and the costs of repairs to remedy the
9 violation of Section 27153 or 27153.5 of the Vehicle Code.

10 (3) An applicant for repair assistance shall file an application
11 on a form prescribed by the department, and shall certify under
12 penalty of perjury that the applicant meets the applicable eligibility
13 standards.

14 (4) Verification of income eligibility shall be based on at least
15 one form of documentation, as determined by the department,
16 including, but not limited to, (A) an income tax return, (B) an
17 employment warrant, or (C) a form of public assistance
18 verification.

19 (c) The repair assistance program shall be funded by the High
20 Polluter Repair or Removal Account.

21 (d) Repairs to motor vehicles that fail smog check inspections
22 and are subsidized by the state through the program shall be
23 performed at a repair station licensed and certified pursuant to
24 Sections 44014 and 44014.2. ~~Repair Repairs~~ shall be based upon
25 a preapproved list of repairs for cost-effective emission reductions
26 or repairs to remedy a violation of Section 27153 or 27153.5 of
27 the Vehicle Code.

28 (e) The qualified low-income motor vehicle owner receiving
29 repair assistance pursuant to this section shall contribute a
30 copayment, as determined by the department as specified in Section
31 44017.1, either in cash, or in emissions-related partial repairs as
32 verified by a test-only station pursuant to paragraph (2) of
33 subdivision (c) of Section 44015, or a combination thereof. ~~For~~
34 ~~an owner of a motor vehicle described in subparagraph (B) of~~
35 ~~paragraph (1) of subdivision (b), the department shall impose a~~
36 ~~copayment at least equivalent to the amount imposed on a~~
37 ~~low-income individual receiving assistance under this section.~~ If
38 the repair cost exceeds the applicable repair cost limit, the
39 department shall inform a motor vehicle owner of all options for
40 compliance at the time of testing and repair.

1 (f) The department may increase its contribution toward the
2 repair of a motor vehicle under this program in excess of the
3 amount authorized for the repair of a ~~high-polluter~~ *high polluter*
4 pursuant to paragraph (1) of subdivision (b) of Section 44094, if
5 the department determines that the expenditure is ~~cost-effective~~
6 *cost effective*. In determining the cost effectiveness of the
7 expenditure, the department shall consider a failure of the visible
8 smoke test, pursuant to Section 44012.1, and the costs associated
9 with repairing a smoking vehicle.

10 ~~(g) Notwithstanding subparagraph (A) of paragraph (1) of~~
11 ~~subdivision (b), the department may increase the maximum income~~
12 ~~level of a low-income motor vehicle owner under this program~~
13 ~~from the amount specified in this section, not to exceed 225 percent~~
14 ~~of the federal poverty level, if the department determines that the~~
15 ~~increase is capable of being supported within existing budget~~
16 ~~allocations.~~

17 ~~(h)~~

18 (g) The department shall collect data from the program to
19 provide information on how to improve the program. Data
20 collection shall include all of the following:

21 (1) The number of motor vehicle owners that are eligible for
22 repair assistance.

23 (2) The number of eligible motor vehicle owners that use repair
24 assistance funds.

25 (3) The potential for fraud.

26 (4) The average repair bills.

27 (5) The types of repairs being done.

28 (6) The amount of partial repairs done prior to receipt of repair
29 assistance.

30 (7) The emissions benefits of providing repair assistance.

31 ~~(i)~~

32 (h) For purposes of this section, “low-income motor vehicle
33 owner” means a person whose income does not exceed ~~200~~ *300*
34 percent of the federal poverty level, *as published quarterly in the*
35 *Federal Register by the Department of Health and Human Services.*

36 SEC. 3. Section 44094 of the Health and Safety Code is
37 amended to read:

38 44094. (a) Participation in the high polluter repair or removal
39 program specified in this article and Article 10 (commencing with
40 Section 44100) shall be voluntary and shall be available to the

1 owners of high polluters that are registered in an area that is subject
2 to an inspection and maintenance program, have been registered
3 for at least 24 months in the district where the credits are to be
4 applied and, are presently operational, and meet other criteria, as
5 determined by the department.

6 (b) The program shall provide for both of the following:

7 (1) As to the repair of a high polluter, payment to the owner of
8 up to 80 percent of the total cost of repair, as determined by the
9 department, but the payment shall not exceed ~~four~~ *seven* hundred
10 fifty dollars ~~(\$450)~~ *(\$750)*.

11 (2) As to the removal of a high polluter, the program shall be
12 subject to Article 10 (commencing with Section 44100).

13 (c) Except as provided in Section 44062.3, the department may
14 specify the amount of money that may be paid to an owner of a
15 high-polluting motor vehicle who voluntarily retires the vehicle.
16 The amount paid by the department shall be based on the
17 cost-effectiveness and the air quality benefit of retiring the vehicle,
18 as determined by the department.

19 (d) The department may authorize participation in the program
20 based on a reasonable estimate of the future revenues that will be
21 available to the program.

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

ASSEMBLY BILL

No. 892

Introduced by Assembly Member Furutani

February 26, 2009

An act to amend Section 39626.5 of the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 892, as introduced, Furutani. Goods Movement Emission Reduction Program.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of general obligation bonds for various transportation-related purposes, including reducing emissions and improving air quality in trade corridors. The State Air Resources Board is required to allocate the funds to be used for air quality purposes pursuant to specified requirements. No project can be funded unless the project is sponsored by an applicant, as defined. Returned funds or unspent funds from obligated contracts received by the applicant prior to the end of a requirement to liquidate funds within 4 years of the date of the award of a contract between the applicant and a contractor revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation upon appropriation by the Legislature.

This bill would authorize the applicant to reallocate these funds to backup projects covered by the same grant agreement, or these funds revert to the state board for reallocation consistent with guidelines to be developed by the state board. Funds reallocated either by the applicant

or the state board must be liquidated within 4 years of the date of the award of the original contract, or the funds revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation upon appropriation by the Legislature.

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

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

1 SECTION 1. Section 39626.5 of the Health and Safety Code
2 is amended to read:
3 39626.5. (a) A project shall not be funded pursuant to this
4 chapter unless both of the following requirements are met:
5 (1) The project is sponsored by an applicant.
6 (2) The project is consistent with any comprehensive local or
7 regional plans or strategies to reduce emissions from goods
8 movement activities in its jurisdiction.
9 (b) Notwithstanding Section 16304.1 of the Government Code,
10 an applicant receiving funds pursuant to this chapter shall have up
11 to two years from the date that the funds are allocated to the
12 applicant to award the contract for implementation of the project,
13 or the funds shall revert to the California Ports Infrastructure,
14 Security, and Air Quality Improvement Account for allocation as
15 provided in paragraph (2) of subdivision (c) of Section 8879.23
16 of the Government Code upon appropriation by the Legislature.
17 Funds not liquidated within four years of the date of the award of
18 the contract between the applicant and the contractor shall revert
19 to the California Ports Infrastructure, Security, and Air Quality
20 Improvement Account for allocation as provided in paragraph (2)
21 of subdivision (c) of Section 8879.23 of the Government Code
22 upon appropriation by the Legislature. Returned funds or unspent
23 funds from obligated contracts received by the applicant prior to
24 the end of the *four-year* liquidation period *may be reallocated by*
25 *the applicant to fund other projects listed in the same contract*
26 *award, or shall be returned to the state board for reallocation by*
27 *the state board pursuant to guidelines developed and adopted by*
28 *the state board through a public process. These guidelines shall*
29 *give first priority to projects that are both in the same emission*
30 *source category and in the same trade corridor as the original*
31 *project, and second priority to projects that are only in the same*

1 *trade corridor as the original project. All funds reallocated either*
2 *by the applicant or the state board shall be liquidated within four*
3 *years of the date of the award of the original contract. Funds not*
4 *liquidated within these four years shall revert to the California*
5 *Ports Infrastructure, Security, and Air Quality Improvement*
6 *Account for allocation provided in paragraph (2) of subdivision*
7 *(c) of Section 8879.23 of the Government Code upon appropriation*
8 *by the Legislature.*

9 (c) Of the amount appropriated in Item 3900–001–6054 of the
10 Budget Act of 2007, not more than twenty-five million dollars
11 (\$25,000,000) shall be available to the state board for the purpose
12 of executing grant agreements directly with ports, railroads, or
13 local air districts for eligible projects to achieve the earliest possible
14 health risk reduction from the emission sources identified in
15 subdivision (c) of Section 39625.1. It is the intent of the Legislature
16 that funds allocated pursuant to this subdivision be distributed
17 pursuant to the guidelines adopted by the state board under Section
18 39626, and that the *state* board provide sufficient opportunity for
19 the public to review and comment on any projects proposed to be
20 funded pursuant to this subdivision.

O

ASSEMBLY BILL

No. 1135

Introduced by Assembly Member Skinner

February 27, 2009

An act to amend Section 4602 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as introduced, Skinner. Vehicles: registration renewal.

Existing law requires an owner of a vehicle to submit an application for renewal of a vehicle registration to the Department of Motor Vehicles no later than midnight of the expiration date.

This bill would require the owner of a vehicle, upon application for renewal of a vehicle registration, to report the current odometer reading of the vehicle. The bill would require that information, except for the name of the vehicle owner, to be public information.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) To assist in achieving California's climate change policy
- 4 objectives as these relate to the state's transportation planning
- 5 goals, it is evident that better information about greenhouse gas
- 6 emissions from motor vehicles will be essential.
- 7 (b) The current use of estimates and models for measuring the
- 8 miles driven and the resulting emissions from those miles driven

1 have been historically useful, but are considered generally
2 inadequate for providing the specific transportation needs of the
3 future.

4 (c) More accurate data about vehicle-miles-traveled—the
5 mileage driven annually by Californians—would provide essential
6 information to guide local transportation and land use planning.
7 Location of transit corridor improvements, light rail, bicycle paths,
8 and high-occupancy freeway lanes now depend on the estimates
9 done by various state agencies, but all of these projects would
10 benefit from more accurate data. Better data would also provide
11 more consistent local and statewide estimates for transportation
12 planning, city planning, and air quality planning efforts. The data
13 would be essential in establishing long-term, historical trends in
14 vehicle use, traffic congestion, energy consumption, and air quality
15 measures, including ozone precursor pollutants and greenhouse
16 gases.

17 (d) Mobile source emissions estimates would be improved due
18 to the detailed information on vehicle-miles traveled by vehicle
19 age. Newer vehicles tend to be cleaner, yet are driven more than
20 older vehicles. This data would be of critical importance to the
21 State Air Resources Board and local air districts in monitoring
22 fleet turnover, and the efficacy of tailpipe controls in reducing
23 criteria pollutants and greenhouse gases.

24 (e) Transportation planning models would be improved due to
25 detailed information on vehicle-miles traveled by neighborhood
26 for each registered vehicle. Vehicles owned by urban households
27 tend to be driven less than vehicles owned in suburban and rural
28 neighborhoods. This consistent statewide database would be critical
29 in identifying trends in vehicle usage in the rural, suburban, and
30 urban neighborhoods in California.

31 SEC. 2. Section 4602 of the Vehicle Code is amended to read:

32 4602. (a) Application for renewal of a vehicle registration
33 shall be made by the owner not later than midnight of the expiration
34 date, and shall be made by presentation of the registration card
35 last issued for the vehicle or by presentation of a potential
36 registration card issued by the department for use at the time of
37 renewal and by payment of the full registration year fee for the
38 vehicle ~~as provided in this code~~. If the registration card and
39 potential registration card are unavailable, a fee as specified in
40 Section 9265 shall not be paid.

- 1 *(b) At the time of application for renewal of a vehicle*
- 2 *registration, the owner shall report the current odometer reading.*
- 3 *This information, except for the name of the vehicle owner, shall*
- 4 *be public information.*

O

ASSEMBLY BILL

No. 1186

Introduced by Assembly Member Blumenfield

February 27, 2009

An act to add Section 43846 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as introduced, Blumenfield. Employee parking.

Existing law requires, in any air basin designated as nonattainment for certain air quality standards, an employer of 50 persons or more that provides a parking subsidy to employees, to also offer a parking cash-out program, as provided.

This bill would require a lessor of a nonresidential building, located within such an air basin, that offers parking to tenants of the building to list the parking costs as a separate line item in all lease agreements. The bill would make this requirement applicable only to a nonresidential building that has a maximum occupancy of 50 or more persons.

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

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

- 1 SECTION 1. Section 43846 is added to the Health and Safety
- 2 Code, to read:
- 3 43846. (a) The lessor of a nonresidential building, located
- 4 within an air basin designated as a nonattainment area pursuant to
- 5 Section 39608, that offers parking to tenants of the building shall
- 6 list the parking costs as a separate line item in all lease agreements.

- 1 (b) This section applies only to a nonresidential building that
- 2 has a maximum occupancy of fifty or more persons.

O

Introduced by Senator PavleyFebruary 26, 2009

An act to amend Section 44011 of, and to add Section 44012.5 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 435, as introduced, Pavley. Smog check program: motorcycles.

Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs, that provides for the inspection of motor vehicles upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law exempts from biennial inspection all motorcycles until the department implements test procedures applicable to motorcycles. Violations of smog check requirements are a crime.

This bill would require the department to include model-year 2000 and newer motorcycles in the smog check program beginning January 1, 2012.

Because violations of smog checks for motorcycles would be a crime, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 44011 of the Health and Safety Code, as
2 added by Section 3 of Chapter 739 of the Statutes of 2007, is
3 amended to read:

4 44011. (a) All motor vehicles powered by internal combustion
5 engines that are registered within an area designated for program
6 coverage shall be required biennially to obtain a certificate of
7 compliance or noncompliance, except for the following:

8 (1) All motorcycles ~~until the department, pursuant to Section~~
9 ~~44012, implements test procedures applicable to motorcycles~~
10 *manufactured prior to the 2000 model-year.*

11 (2) All motor vehicles that have been issued a certificate of
12 compliance or noncompliance or a repair cost waiver upon a change
13 of ownership or initial registration in this state during the preceding
14 six months.

15 (3) All motor vehicles manufactured prior to the 1976
16 model-year.

17 (4) (A) Except as provided in subparagraph (B), all motor
18 vehicles four or less model-years old.

19 (B) Beginning January 1, 2005, all motor vehicles six or less
20 model-years old, unless the state board finds that providing an
21 exception for these vehicles will prohibit the state from meeting
22 the requirements of Section 176(c) of the federal Clean Air Act
23 (42 U.S.C. Sec. 7401 et seq.) or the state's commitments with
24 respect to the state implementation plan required by the federal
25 Clean Air Act.

26 (C) All motor vehicles excepted by this paragraph shall be
27 subject to testing and to certification requirements as determined
28 by the department, if any of the following apply:

29 (i) The department determines through remote sensing activities
30 or other means that there is a substantial probability that the vehicle
31 has a tampered emission control system or would fail for other
32 cause a smog check test as specified in Section 44012.

33 (ii) The vehicle was previously registered outside this state and
34 is undergoing initial registration in this state.

35 (iii) The vehicle is being registered as a specially constructed
36 vehicle.

1 (iv) The vehicle has been selected for testing pursuant to Section
2 44014.7 or any other provision of this chapter authorizing
3 out-of-cycle testing.

4 (D) This paragraph does not apply to diesel-powered vehicles
5 *or motorcycles*.

6 (5) In addition to the vehicles exempted pursuant to paragraph
7 (4), any motor vehicle or class of motor vehicles exempted pursuant
8 to subdivision (b) of Section 44024.5. It is the intent of the
9 Legislature that the department, pursuant to the authority granted
10 by this paragraph, exempt at least 15 percent of the lowest emitting
11 motor vehicles from the biennial smog check inspection.

12 (6) All motor vehicles that the department determines would
13 present prohibitive inspection or repair problems.

14 (7) Any vehicle registered to the owner of a fleet licensed
15 pursuant to Section 44020 if the vehicle is garaged exclusively
16 outside the area included in program coverage, and is not primarily
17 operated inside the area included in program coverage.

18 (8) (A) All diesel-powered vehicles manufactured prior to the
19 1998 model-year.

20 (B) All diesel-powered vehicles that have a gross vehicle weight
21 rating of 8,501 to 10,000 pounds, inclusive, until the department,
22 in consultation with the state board, pursuant to Section 44012,
23 implements test procedures applicable to these vehicles.

24 (C) All diesel-powered vehicles that have a gross vehicle weight
25 rating from 10,001 pounds to 13,999 pounds, inclusive, until the
26 state board and the Department of Motor Vehicles determine the
27 best method for identifying these vehicles, and until the department,
28 in consultation with the state board, pursuant to Section 44012,
29 implements test procedures applicable to these vehicles.

30 (D) All diesel-powered vehicles that have a gross vehicle weight
31 rating of 14,000 pounds or greater.

32 (b) Vehicles designated for program coverage in enhanced areas
33 shall be required to obtain inspections from appropriate smog
34 check stations operating in enhanced areas.

35 (c) For purposes of subdivision (a), a collector motor vehicle,
36 as defined in Section 259 of the Vehicle Code, is exempt from
37 those portions of the test required by subdivision (f) of Section
38 44012 if the collector motor vehicle meets all of the following
39 criteria:

1 (1) Submission of proof that the motor vehicle is insured as a
2 collector motor vehicle, as shall be required by regulation of the
3 bureau.

4 (2) The motor vehicle is at least 35 model-years old.

5 (3) The motor vehicle complies with the exhaust emissions
6 standards for that motor vehicle’s class and model-year as
7 prescribed by the department, and the motor vehicle passes a
8 functional inspection of the fuel cap and a visual inspection for
9 liquid fuel leaks.

10 ~~(d) This section shall become operative on January 1, 2010.~~

11 SEC. 2. Section 44012.5 is added to the Health and Safety
12 Code, to read:

13 44012.5. Beginning January 1, 2012, the department shall
14 include model-year 2000 and newer motorcycles, registered for
15 on-road use in California, in the inspection and maintenance
16 program established pursuant to this chapter. The department, in
17 cooperation with the state board, shall adopt regulations to
18 implement this section, including prescribing test procedures for
19 motorcycles by July 1, 2011.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

Introduced by Senator HollingsworthFebruary 27, 2009

An act to add section 41814 to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 554, as introduced, Hollingsworth. Air pollution control districts: residential wood-burning devices.

Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing federal regulations establish standards of performance for new residential wood heaters.

Existing law requires the state board, in consultation with the districts, to develop a list of the most readily available and cost-effective control measures that could be employed by the state board and districts to reduce emissions of PM 2.5 and PM 10 particulate matter. Existing law requires that the list include control measures for woodstoves and fireplaces among other emission source categories. Existing law requires the state board and each district to adopt an implementation schedule for the most cost-effective measures on the list.

This bill would prohibit any district from adopting a rule or regulation that restricts or prohibits the installation or operation of any wood-burning device in any new or existing residential structure.

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

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

- 1 SECTION 1. Section 41814 is added to the Health and Safety
- 2 Code, to read:
- 3 41814. A district may not adopt or implement any rule or
- 4 regulation that restricts or prohibits any of the following:
- 5 (a) Installation of any wood-burning fireplace, wood-burning
- 6 heater, or wood-burning stove in any new or existing residential
- 7 structure.
- 8 (b) Operation of a wood-burning fireplace, wood-burning heater,
- 9 or wood-burning stove at any new or existing residential structure.

Introduced by Senator LowenthalFebruary 27, 2009

An act to amend and renumber Section 1760 of, to add a heading to Chapter 1 (commencing with Section 1720) of, and to add Chapter 2 (commencing with Section 1740) to, Part 2 of Division 6 of, the Harbors and Navigation Code, relating to ports.

LEGISLATIVE COUNSEL'S DIGEST

SB 632, as introduced, Lowenthal. Ports: congestion relief: air pollution mitigation.

(1) Existing law regulates the operation of ports and harbors.

This bill would require the Ports of Long Beach, Los Angeles, and Oakland, beginning January 1, 2010, to assess their infrastructure and air quality improvement needs, including, but not limited to, projects that improve the efficiency of the movement of cargo while reducing pollution associated with the movement of that cargo, and the replacement of trucks, cargo handling equipment, locomotives, and ships that move that cargo.

The bill would require each port to provide this assessment to the Legislature by July 1, 2010, and to include in the assessment the total costs of the infrastructure and air quality improvements and possible funding options for these projects.

By imposing these additional duties upon the ports this bill would establish a state-mandated local program.

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

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

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

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

1 SECTION 1. The heading of Chapter 1 (commencing with
2 Section 1720) is added to Part 2 of Division 6 of the Harbors and
3 Navigation Code, immediately preceding Section 1720, to read:

4
5 CHAPTER 1. PORT FACILITY CONSTRUCTION
6

7 SEC. 2. Chapter 2 (commencing with Section 1740) is added
8 to Part 2 of Division 6 of the Harbors and Navigation Code, to
9 read:

10
11 CHAPTER 2. PORT CONGESTION RELIEF AND PORT MITIGATION
12 RELIEF
13

14 1740. The Legislature hereby finds and declares all of the
15 following:

16 (a) The Ports of Long Beach, Los Angeles, and Oakland operate
17 in unique communities, environments, and markets that require
18 infrastructure improvements and air pollution reduction measures
19 tailored to the nature and degree of need in each port of each
20 community.

21 (b) There is a need to mitigate the enormous burden imposed
22 on the highway transportation system serving the Ports of Long
23 Beach, Los Angeles, and Oakland by the overland movement of
24 container cargo shipped to and from those ports.

25 (c) The operations at the ports, including the movement of
26 locomotives, ships, and trucks that move cargo containers to and
27 from the ports, cause air pollution that requires mitigation. This
28 pollution contributes to the thousands of premature deaths and
29 billions of dollars of health costs each year attributable to goods
30 movement pollution in California.

31 1750. Beginning January 1, 2010, the Port of Long Beach shall
32 assess its infrastructure and air quality improvement needs
33 including, but not limited to, projects that improve the efficiency
34 of the movement of cargo while reducing pollution associated with
35 the movement of that cargo, and the replacement of the trucks,

1 cargo handling equipment, locomotives, and ships that move that
2 cargo. On or before July 1, 2010, the port shall provide this
3 assessment to the Legislature and shall include, but not be limited
4 to, an assessment of total costs of the infrastructure and air quality
5 improvements as well as all of the possible funding options for
6 those projects.

7 1760. Beginning January 1, 2010, the Port of Los Angeles shall
8 assess its infrastructure and air quality improvement needs
9 including, but not limited to, projects that improve the efficiency
10 of the movement of cargo while reducing pollution associated with
11 the movement of that cargo, and the replacement of the trucks,
12 cargo handling equipment, locomotives, and ships that move that
13 cargo. On or before July 1, 2010, the port shall provide this
14 assessment to the Legislature and shall include, but not be limited
15 to, an assessment of total costs of the infrastructure and air quality
16 improvements as well as all of the possible funding options for
17 those projects.

18 1770. Beginning January 1, 2010, the Port of Oakland shall
19 assess its infrastructure and air quality improvement needs
20 including, but not limited to, projects that improve the efficiency
21 of the movement of cargo while reducing pollution associated with
22 the movement of that cargo, and the replacement of the trucks,
23 cargo handling equipment, locomotives, and ships that move that
24 cargo. On or before July 1, 2010, the port shall provide this
25 assessment to the Legislature and shall include, but not be limited
26 to, an assessment of total costs of the infrastructure and air quality
27 improvements as well as all of the possible funding options for
28 those projects.

29 SEC. 3. Section 1760 of the Harbors and Navigation Code is
30 amended and renumbered to read:

31 ~~1760.~~

32 1730. (a) For purposes of this section, “council” means the
33 California Marine and Intermodal Transportation System Advisory
34 Council, a regional subunit of the Marine Transportation System
35 National Advisory Council chartered by the federal Secretary of
36 Transportation under the Federal Advisory Council Act—(~~P.L.~~
37 ~~92-463~~) (*Public Law 92-463*).

38 (b) The council is requested to do all of the following:

39 (1) Meet, hold public hearings, and compile data on issues that
40 include, but need not be limited to, all of the following:

1 (A) The projected growth of each maritime port in the state.

2 (B) The costs and benefits of developing a coordinated state
3 program to obtain federal funding for maritime port growth,
4 security, and congestion relief.

5 (C) Impacts of maritime port growth on the state's transportation
6 system.

7 (D) Air pollution caused by movement of goods through the
8 state's maritime ports, and proposed methods of mitigating or
9 alleviating that pollution.

10 (E) Maritime port security, including, but not limited to, training,
11 readiness, certification of port personnel, exercise planning and
12 conduct, and critical marine transportation system infrastructure
13 protection.

14 (F) A statewide plan for continuing operation of maritime ports
15 in cooperation with the United States Coast Guard, the federal
16 Department of Homeland Security, the ~~Office of Emergency~~
17 ~~Services, the state Office of Homeland Security~~ *California*
18 *Emergency Management Agency*, and the California National
19 Guard, consistent with the state's emergency management system
20 and the national emergency management system, in the event of
21 a major incident or disruption of port operations in one or more
22 of the state's maritime ports.

23 (G) State marine transportation policy, legislation, and planning;
24 regional infrastructure project funding; competitiveness;
25 environmental impacts; port safety and security; and any other
26 matters affecting the marine transportation system of the United
27 States within, or affecting, the state.

28 (2) Identify all state agencies that are involved with the
29 development, planning, or coordination of maritime ports in the
30 state.

31 (3) Identify other states that have a statewide port master plan
32 and determine whether that plan has assisted those states in
33 improving their maritime ports.

34 (4) Compile all information obtained pursuant to paragraphs
35 (1) to (3), inclusive, and submit its findings in a report to the
36 Legislature not later than January 1, 2006. The report should
37 include, but need not be limited to, recommendations on methods
38 to better manage the growth of maritime ports and address the
39 environmental impacts of moving goods through those ports.

1 (c) The activities of the council pursuant to this section shall
2 not be funded with appropriations from the General Fund.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 a local agency or school district has the authority to levy service
6 charges, fees, or assessments sufficient to pay for the program or
7 level of service mandated by this act, within the meaning of Section
8 17556 of the Government Code.

O

Introduced by Senator Lowenthal

February 27, 2009

An act to amend Section 43845 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 728, as introduced, Lowenthal. Air pollution: parking cash-out program.

Existing law requires an employer of 50 persons or more who provides a parking subsidy to employees and who is in an air basin that is designated as a nonattainment area in terms of air quality to offer a parking cash-out program, defined as an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space.

This bill would authorize the State Air Resources Board to impose a civil penalty for a violation of this requirement, and would authorize a city, county, and air pollution control district or air quality management district to adopt additional penalties and compliance mechanisms.

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

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

- 1 SECTION 1. Section 43845 of the Health and Safety Code is
- 2 amended to read:
- 3 43845. (a) In any air basin designated as a nonattainment area
- 4 pursuant to Section 39608, each employer of 50 persons or more
- 5 who provides a parking subsidy to employees, shall offer a parking

1 cash-out program. “Parking cash-out program” means an
2 employer-funded program under which an employer offers to
3 provide a cash allowance to an employee equivalent to the parking
4 subsidy that the employer would otherwise pay to provide the
5 employee with a parking space.

6 (b) A parking cash-out program may include a requirement that
7 employee participants certify that they will comply with guidelines
8 established by the employer designed to avoid neighborhood
9 parking problems, with a provision that employees not complying
10 with the guidelines will no longer be eligible for the parking
11 cash-out program.

12 (c) As used in this section, the following terms have the
13 following meanings:

14 (1) “Employee” means an employee of an employer subject to
15 this section.

16 (2) “Parking subsidy” means the difference between the
17 out-of-pocket amount paid by an employer on a regular basis in
18 order to secure the availability of an employee parking space not
19 owned by the employer and the price, if any, charged to an
20 employee for use of that space.

21 (d) Subdivision (a) does not apply to any employer who, on or
22 before January 1, 1993, has leased employee parking, until the
23 expiration of that lease or unless the lease permits the employer
24 to reduce, without penalty, the number of parking spaces subject
25 to the lease.

26 (e) It is the intent of the Legislature, in enacting this section,
27 that the cash-out requirements apply only to employers who can
28 reduce, without penalty, the number of paid parking spaces they
29 maintain for the use of their employees and instead provide their
30 employees the cash-out option described in this section.

31 (f) *The state board may impose the civil penalty described in*
32 *Section 43016 for a violation of this section. In addition, a city,*
33 *county, and air district may adopt additional penalties and*
34 *compliance mechanisms for a violation of this section for any*
35 *employer within that city, county, or air district’s jurisdiction.*

BAAQMD BILL DISCUSSION LIST

MARCH 16, 2009

BILL NO.	AUTHOR	SUBJECT
AB 19	Ruskin	Carbon Labeling Act of 2009; voluntary carbon footprint of consumer products
AB 21	B.Lowenthal	Restrictions on methyl bromide fumigation at ports
AB 28	Jeffries	Prohibits air districts from restricting use of public agency natural gas engines to pump water
AB 96	Ruskin	Changes to gasoline underground storage tank grant program
AB 118	Logue	Repeals California Global Warming Solutions Act of 2006
AB 137	Jeffries	Tightens Brown Act requirements for advisory committees
AB 222	Adams	States intent to advance biofuels and green power production
AB 231	Huffman	Climate Protection Trust Fund
AB 318	Emmerson	Smog check amnesty cleanup (fixing last year's bill)
AB 376	Nava	Voluntary greenhouse gas emissions offsets
AB 397	Jeffries	Makes SCAQMD Board members elected positions
AB 414	Galgiani	Extends Moyer eligibility to heavy-duty fleet trade down program
AB 433	Ammiano	Requires new residential construction near roads with high PM levels to have ventilation system to reduce PM exposures for residents
AB 453	Garrick	Gasoline vapor recovery spot bill
AB 478	Chesbro	Requires ARB to consult with Integrated Waste Board in development of AB 32 rules
AB 499	Hill	CEQA
AB 658	Hayashi	Doubles potential grant amount to dry cleaners moving to cleaner technologies
AB 670	Berryhill	Allows veterans to use HOV lanes
AB 696	Hagman	Allows CEQA project applicant to resolve disputes with lead agency via an arbitrator
AB 782	Jeffries	Significant changes to 2008's SB 375 to make the law more business-friendly
AB 821	Brownley	Clean and Healthy Schools Act

AB 823	Hill	Increases state buyback amount for failed smog vehicle to potentially \$2,000
AB 835	Monning	Addresses VOC emissions from pesticides
AB 859	Jones	Annual smog inspection of older vehicles
AB 881	Huffman	Authorizes local transportation authorities to implement programs to cut GHG emissions, and states intent to have Sonoma Transportation Authority coordinate GHG emission reductions from local and community agencies there
AB 892	Furutani	Allows Prop 1B Goods Movement Emission Reduction Program funds to be reallocated when a project is no longer feasible
AB 922	Miller	Exempts California-made biofuel from diesel fuel tax
AB 956	Skinner	States intent to require ARB to adopt regulations on pavement coating to reduce urban heat island effect
AB 1016	Villines	Abolishes California Energy Commission and creates new Department of Energy
AB 1033	Nielsen	Spot bill on air quality
AB 1043	Fong	States legislative intent to encourage biofuel use in California
AB 1085	Mendoza	Requires ARB to make publicly available all supporting information for a regulation before the comment period for the regulation
AB 1097	Eng	Requires state fleet to achieve 35 mpg
AB 1107	Blakeslee	Spot bill on scientific peer review of CalEPA regulations
AB 1135	Skinner	VMT data collection at time of registration
AB 1186	Blumenfield	Requires non-residential building lessors to separately list parking costs in the lease agreement
AB 1204	Huber	Broadens last year's SB 375 CEQA exemption beyond residential and mixed-use/residential projects
AB 1212	Ruskin	Authorizes ARB to implement a feebate program on new vehicle sales to cut greenhouse gas emissions
AB 1237	Garrick	Smog check spot bill
AB 1268	Gaines	States intent to impose a carbon tax and offset marginal personal income tax rates
AB 1305	V.M. Perez	Imposes a mitigation fee on electricity generated in Mexico and imported into the state
AB 1313	Adams	States legislative intent to have the Legislature regulate offset allocation in the South Coast
AB 1318	V.M. Perez	Transfers emission reduction credits from SCAQMD bank
AB 1350	Blakeslee	Establishes California Sustainable Biofuels Program
AB 1373	Skinner	Requires plan to phase out use of high global warming potential refrigerants by 2020

AB 1395	Torricono	Requires ARB to make publicly available all proposals to change regulations and workshop information
AB 1404	De Leon & V.M. Perez	Establishes multiple conditions greenhouse gas emission offsets must meet if they are to be used for AB 32 compliance
AB 1405	De Leon	Establishes Community Benefits Fund to mitigate climate change impacts in the most impacted and economically disadvantaged communities
AB 1431	Hill	Green chemistry spot bill
AB 1452	Skinner	States legislative intent to require ARB to adopt procurement standards for cement to reduce greenhouse gas and particulate emissions from its production and transport
AB 1496	Skinner	States intent to require CalEPA to have Supplemental Environmental Projects do mitigation near the scene of the environmental violation
AB 1500	Lieu	Extends hybrid vehicle use of HOV lanes from 2011 to 2016
AB 1502	Eng	Extends hybrid vehicle use of HOV lanes from 2011 to 2017
AB 1507	Block	Revises environmental grant program for metal plating facilities
AB 1527	Lieu	Allows a single motor vehicle emission reduction project to be funded from multiple grant programs
AB 1536	Blakeslee	Distributed generation spot bill
ACR 14	Niello	Calls on ARB to expand its economic analysis of AB 32 actions, and for the Governor to adjust deadlines
SB 31	Pavley	Specifies uses for fees collected by ARB on greenhouse gas emission sources
SB 104	Oropeza	Adds nitrogen trifluoride as a greenhouse gas, and establishes process for adding other compounds
SB 124	Oropeza	Codifies regulations limiting idling of schoolbuses
SB 128	Padilla	Creates the California Climate Change Institute
SB 180	Florez	Portable classroom air quality spot bill
SB 205	Hancock	Allows vehicle registration fee of up to \$10 to be placed on ballot by countywide transportation planning agencies for uses such as congestion management and air quality improvement
SB 225	Florez	Allows districts to create emission reduction credits from projects funded with public and private funds
SB 232	Benoit	Would allow an unlimited number of specialty constructed vehicles to be registered annually
SB 295	Dutton	Would prevent AB 32 implementation until the unemployment rate is below 5.8% for 3 months
SB 351	Huff	HOV lane spot bill
SB 382	Florez	Prohibits San Joaquin Valley agricultural burning on days when residential burning is banned

SB 385	Wright	Exempts historic vehicles from smog check, and allows owners to self-certify that their vehicle is historic
SB 391	Liu	Requires Caltrans to include greenhouse gas emission reductions in California Transportation Plan, and to consult with different entities, including air districts, in its development
SB 400	Corbett	Expands AB 118 grant funding to go to broader change of clean vehicles, and defines CA Green Vehicle
SB 406	DeSaulnier	Changes Planning and Advisory Council composition, and allows MPO's and COG's to impose a \$2 per vehicle registration fee for development and implementation of a regional blueprint to reduce vehicle use
SB 412	Kehoe	Changes and extends self-generation incentive program for non-solar distributed generation
SB 425	Simitian	Creates a new employer-based trip reduction program
SB 435	Pavley	Adds post-2000 motorcycles to smog check program
SB 468	Runner	Air pollution spot bill
SB 476	Correa	Exempts from CEQA some environmental enhancement projects, and limits cumulative impact evaluation
SB 507	Cox	Delays by one year Phase II enhanced vapor recovery for gas stations
SB 535	Yee	Extends hybrid use of HOV lanes indefinitely
SB 554	Hollingsworth	Prohibits air districts from restricting the installation or use of wood-burning equipment
SB 560	Ashburn	Modifies last year's SB 375 in multiple ways, including generating credit for localities that site commercial wind, solar, or biomass projects in their jurisdiction
SB 626	Kehoe	Assigns CEC to develop and implement policies to encourage plug-in hybrids
SB 632	Lowenthal	Requires container ports to assess and report their infrastructure and air quality needs
SB 675	Steinberg	Clean Technology and Renewable Energy Job Training, Career Technical Education, and Dropout Prevention Act of 2009
SB 696	Wright	States intent to ensure that there are sufficient ERC's in the South Coast for essential public services and clean, efficient, new powerplants
SB 721	Steinberg	Creates Climate Action Team to coordinate AB 32 actions and implementation
SB 722	Steinberg	Establishes requirements on those selling voluntary greenhouse gas emission reduction credits
SB 728	Lowenthal	Imposes civil penalty for violation of parking cashout law, and allows air districts to impose additional penalties and compliance mechanisms
SB 729	Walters	Greenhouse gas spot bill
SB 811	DeSaulnier	Requires specialty constructed vehicles from out-of-state to meet emissions requirements for their year of manufacture

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2009

Re: Discussion of Survey Results on Board Size and Composition

RECOMMENDED ACTION:

None; informational item.

DISCUSSION

At the last Legislative Committee meeting, staff was directed to poll Board members on the issue of the size and composition of the Board. The poll memorandum to the Board of Directors is attached for your review.

To date only eleven Board members have responded to the poll. Two of these did not express a preference among the options. Of the remaining nine respondents, four preferred Option One ('No Change'), three preferred Option Three, and one preferred Option 2. The final respondent preferred an option wherein the Board size would be reduced further than the first three options. In this alternative, all counties would receive one representative, and counties with a population over one million would receive a second representative. Additionally, the cities of San Jose, San Francisco, and Oakland would receive a representative. This would yield a total Board size of 15.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Thomas Addison
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Pamela Torliatt and
Members of the Board

From: Chairperson Tom Bates
Legislative Committee

Date: February 23, 2009

Re: Poll Concerning Board Size

At the Legislative Committee meeting, on Monday, February 23rd, staff was directed to poll the Board of Directors on the issue of the size of the Board. At the Board of Directors' meeting on Wednesday, February 4th, the full Board discussed the issue of potential legislative changes to the current Board size and composition. The Board of Directors sent the issue back to the Legislative Committee for further discussion. The Legislative Committee, after deliberation, decided to send the following poll to each of you for a response.

Please rank order the following options concerning the size of the Board of Directors.

- 1) No change to the current composition of the Board. (The composition is set in statute, with the number of representatives from each of the nine counties dependent on their population. Counties less than 300,000 have one representative, counties between 300,000 and 750,000 have two, counties between 750,000 and 1,000,000 have three, and counties over 1,000,000 have four.)
- 2) Cap the Board at its current size of 22. Each county would retain the same number of seats that it currently has, but future population increases would not trigger the Board expansion that would otherwise occur.
- 3) Change the county populations at which new representatives would be added. Delay adding a second representative until a county has a population of 350,000 (instead of 300,000), add a third representative at 800,000 (instead of 750,000), and add the fourth representative at 1,200,000 (instead of 1,000,000). Under this option, existing representatives from counties that have already exceeded the existing population triggers would not be removed, but counties would not add representatives until the new triggers are reached.
- 4) If you prefer an option not listed above, please describe it.

Please respond to Mary Ann Goodley, Executive Office Manager at mgoodley@baaqmd.gov by Tuesday, March 10, 2009. District staff will tabulate the results and the Legislative Committee will consider them at its next meeting.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2009

Re: Report of the Climate Protection Committee Meeting of March 23, 2009

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Climate Protection Committee met on Monday, March 23, 2009. The Committee received the following update:

A) Update on the 2009 Climate Action Summit

Attached is the staff report presented in the Climate Protection Committee packet.

Chairperson, Yoriko Kishimoto, will provide an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None. The Climate Action Summit is funded in the FY 08/09 budget, supplemented by sponsorships.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Mary Ann Goodley

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Kishimoto and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 16, 2009

Re: 2009 Climate Action Summit

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

At the Climate Protection Committee meeting on February 20, 2009, staff provided an update on the status of logistics planning and provided an overview of content development for the Climate Action Leadership Summit, scheduled for May 4, 2009.

DISCUSSION

Staff continues to develop content for breakout sessions, including meeting with regional agency staff and key stakeholders, in order to develop sessions that are highly interactive and topical. Staff will provide an update on Summit planning to date, including details on development of breakout sessions, desired outcomes, and involvement of other Bay Area regional agencies.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Climate Action Summit is funded in the FY 08/09 budget, supplemented by sponsorships.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Abby Young
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2009

Re: Report of the Mobile Source Committee Meeting of March 26, 2009

RECOMMENDED ACTIONS

The Committee may recommend Board of Directors' approval of the following items:

- A. Proposed Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year 2009/2010 and Proposed Allocations for Specific Project Types:
- 1) The proposed Fiscal Year 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment A;
 - 2) A shift to an ongoing-call for TFCA Regional Fund applications; and
 - 3) The TFCA Regional Fund set-asides listed below. Any monies not spent in these categories within 12 months will revert back to the TFCA Regional Fund for re-allocation:
 - a. Up to \$4 Million for shuttles and rideshare projects,
 - b. Up to \$2 Million for vehicle-based advanced technology demonstration projects, and
 - c. Up to \$750,000 for new alternative-fuel/hybrid, heavy-duty trucks in low-mileage, idling service.
- B. Carl Moyer Voucher Incentive Program:
- 1) Reserve up to \$2 million in Mobile Source Incentive Funds (MSIF) to match \$2 million in California Air Resources Board (CARB) funds to establish a Carl Moyer Voucher Incentive Program (VIP).

BACKGROUND

The Mobile Source Committee will meet on Thursday, March 26, 2009. The Committee will consider and receive the following reports and recommendations:

1. Update on TFCA Regional Fund Program Trends
2. Consider recommendations for proposed Transportation Fund for Clean Air Regional Fund policies and evaluation criteria for Fiscal Year 2009/2010 and proposed allocations for specific project types
3. Update on the Carl Moyer Voucher Incentive Program

Attached are the staff reports presented in the Mobile Source Committee packet.

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

BUDGET CONSIDERATION/FINANCIAL IMPACT

1. None. Administrative and incentive funds for Strategic Incentives Division programs come from four separate funding sources: CMP, TFCA, MSIF and I-Bond. Staff and project costs are provided for by these sources at no cost to the General Fund.
2. None. Each year, the Air District's Board of Directors adopts policies and evaluation criteria that govern the allocation of TFCA funds. Also, prior to each annual funding cycle, the Air District considers revisions to the TFCA policies and evaluation criteria.
3. The CMP distributes "pass-through" funds from CARB to private companies and public agencies on an invoice basis. Staff costs for the administration of the CMP is included under Program 607 – Mobile Source Grants, in the current FY 2008/2009 budget and will be included in the upcoming FY 2009/2010 budget.

The Air District will be obligated to match the CMP multi-district funds in the amount up to the amount of funds awarded by CARB. The District will meet this requirement through the expenditure of motor vehicle surcharge revenues or CMP funds to eligible projects. As such, the local match requirement will have no impact on the Air District's budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Reviewed by: Mary Ann Goodley

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 18, 2009

Re: Update on TFCA Regional Fund Program Trends

RECOMMENDED ACTION

None. Receive and file the informational report on TFCA Regional Fund Program trends.

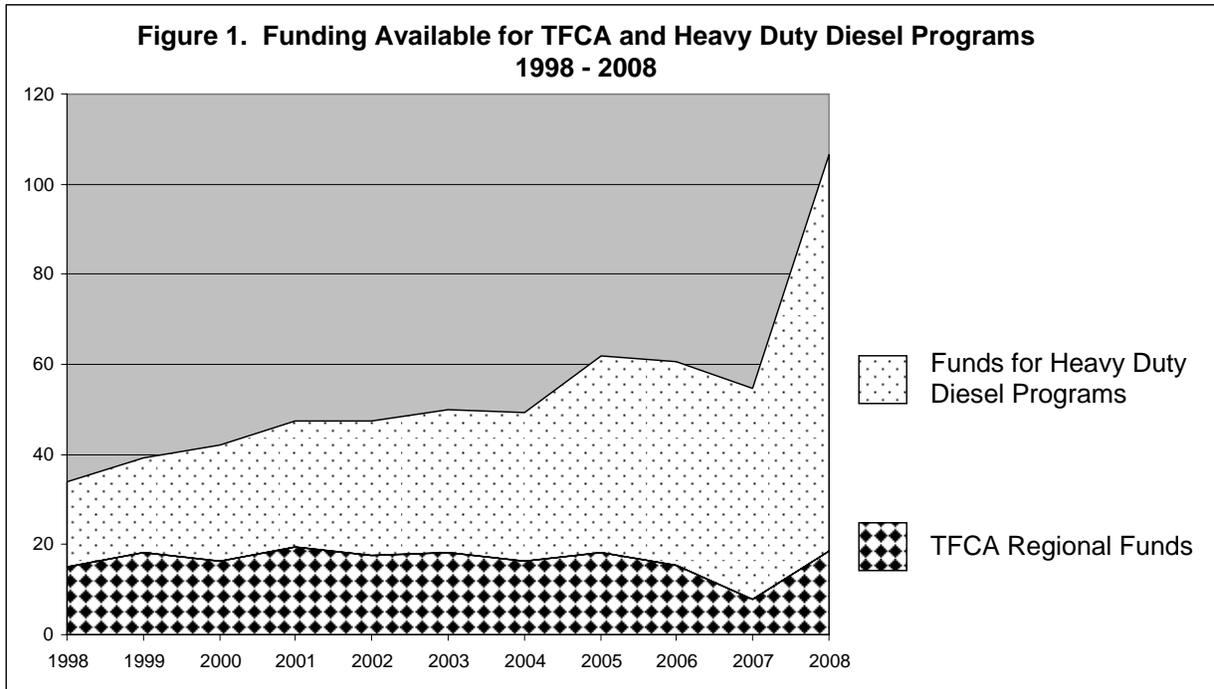
BACKGROUND

The past two years have seen expansive growth in the Air District's incentives programs. Funding levels approximately doubled from FY 07/08 to FY 08/09, and this trend is projected to continue in FY 09/10, where the funding is projected to increase to \$148 million. This is due largely to an influx of money for heavy-duty diesel truck and other large engine projects. At the same time, funding level for light-duty alternative fuel vehicle and trip-reduction projects has remained constant.

The recent passage of the American Recovery and Reinvestment Act (ARRA) of 2009, provides supplemental monies to establish an Alternative Fuel and Advanced Technology Vehicles Pilot Grant Program. Potentially, this program may provide additional funding for large-scale, regional projects that expand the use of low-emission alternative fuel and advanced technology vehicles.

DISCUSSION

Historical data for the program shows the growth in the Air District's incentive funding over the period 1998 to present (represented in Figure 1 below). In the early years of the program (1992 to 1998), the Transportation Fund for Clean Air (TFCA) was the sole source of funding for school bus replacements, truck, light-duty vehicle, shuttle, ridesharing, bicycle, traffic calming and smart growth projects. This funding has been since augmented by the Carl Moyer Program (1998), Assembly Bill 923 which allowed the District to establish its Mobile Source Incentive Fund (MSIF) in 2004, and the 2007 California Goods Movement Bond (I-Bond) fund. Funding for heavy duty engine projects is expected to grow a further \$45 million in 2009 based on the Metropolitan Transportation Commission 2035 Regional Transportation Plan's (2035 RTP) discretionary fund to replace on-road and port drayage trucks.



On February 26, 2009, the Mobile Source Committee received a presentation regarding the increase in funding available for heavy-duty diesel vehicles and large diesel-engine projects. A continuation of that presentation, focused on TFCA Regional Fund Program trends and an update on potential new funding opportunities for low-emission alternative fuel and advanced technology vehicles, will be provided at the March 26, 2009, meeting of the Mobile Source Committee.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Administrative and incentive funds for Strategic Incentives Division programs come from four separate funding sources: CMP, TFCA, MSIF and I-Bond. Staff and project costs are provided for by these sources at no cost to the General Fund.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Karen M. Schkolnick
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 18, 2009

Re: Proposed Transportation Fund for Clean Air Regional Fund Policies and
Evaluation Criteria for Fiscal Year 2009/2010 and Proposed Allocations for
Specific Project Types

RECOMMENDED ACTIONS

Consider recommending Board of Directors' approval of the following:

- 1) The proposed Fiscal Year 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment A;
- 2) A shift to an ongoing-call for TFCA Regional Fund applications; and
- 3) The TFCA Regional Fund set-asides listed below. Any monies not spent in these categories within 12 months will revert back to the TFCA Regional Fund for re-allocation:
 - a. Up to \$4 Million for shuttles and rideshare projects,
 - b. Up to \$2 Million for vehicle-based advanced technology demonstration projects, and
 - c. Up to \$750,000 for new alternative-fuel/hybrid, heavy-duty trucks in low-mileage, idling service.

BACKGROUND

Each year, the Air District's Board of Directors adopts policies and evaluation criteria that govern the allocation of TFCA funds. Also, prior to each annual funding cycle, the Air District considers revisions to the TFCA policies and evaluation criteria.

On February 11, 2009, Air District staff issued a request for comments on proposed TFCA Regional Fund policies and evaluation criteria for FY 2009/2010. The deadline for interested parties to submit comments was March 2, 2009. The Air District received seven responses. A table summarizing the comments and Air District staff responses is provided in Attachment B.

DISCUSSION

Proposed changes to the TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/2010 include:

- TFCA Cost-Effectiveness and Minimum Score, Policy #2:
 - Establish Cost-effectiveness level specific to each project category type.
 - Adjust Minimum Scores to correspond with revised cost-effectiveness levels

- Introduce a new eligible Project category (Policy #22) to fund the incremental cost of the purchase of heavy duty alternative fuel/hybrid service vehicles to reduce diesel emissions from idling.

Finally, staff recommends Air District Board's consideration of a shift to an "on-going" call for TFCA Regional Fund projects that would be phased-in, starting with the projects that are most dependent on timely notification of award (i.e., shuttles and rideshare projects). This change would allow for timely consideration and approval of projects dependent on grant funding.

The proposed TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/2010 are provided in Attachment A. Attachment C provides a comparison between the proposed TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/2010 and the FY 08/09 Board approved version.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Karen Schkolnick
Reviewed by: Jack M. Colbourn

PROPOSED TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2009/10

The following policies apply only to the Transportation Fund for Clean Air (TFCA) Regional Fund.

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District’s jurisdiction are eligible.

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10.

Projects must achieve surplus emission reductions, that is, beyond what is currently required through regulations, contracts, or other legally binding obligations at the time the Air District Board of Directors approves a funding allocation and at the time of the execution of a funding agreement.

2. **TFCA Cost-Effectiveness and Minimum Score:** Projects must meet cost-effectiveness (C-E) levels and minimum scores established by the Air District’s Board of Directors.
 - a. **Cost-Effectiveness:** The ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) reduced (\$/ton). Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below.

Cost-effectiveness levels are limited to the amounts set forth below.		
Project Type	Policy #	C-E level maximum (\$/weighted ton)
Shuttle/Feeder Bus Service—Established	27	\$90,000
Shuttle/Feeder Bus Service—Pilot	27	\$125,000
Regional Ridesharing	28	\$90,000
(NEW) Heavy-Duty Alternative Fuel/ Hybrid Service Vehicles (Low-mileage utility trucks in idling service):	22	\$90,000
Advanced Technology Demonstration	26	\$500,000

- b. **Minimum Score:** In addition, applicants must earn a score of at least 60 points (out of a possible 100 points) for public agencies and 54 points (out of a possible 90 points) for non-public entities, based upon the project evaluation and scoring criteria listed in the FY 2009/10 TFCA Regional Fund Application Guidance document.
3. **Consistent with Existing Plans and Programs:** With the exception of Clean Air Vehicle Projects and Advanced Technology Demonstration Projects, all other project categories must comply with the transportation control measures and mobile source measures included in the Air District’s most recently approved strategy(ies) for State and national ozone standards and, when applicable, with other adopted State, regional, and local plans and programs.

4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new electric/alternative-fuel/hybrid heavy-duty vehicles, and advanced technology demonstrations, as described in HSC section 44241(b)7.
 - b. **Authority to Apply:** Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
5. **Viable Project and Matching Funds:** Unless otherwise specified in the project category policies below, applications of \$150,000 or less do not require matching funds. Applications requesting greater than \$150,000 must provide matching funds from a non-Air District source, which equal or exceed 10% of the total project cost.

Applications must identify sufficient resources to complete the respective project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.
6. **Minimum Grant Amount:** \$10,000 per project.
7. **Maximum Grant Amount:** Maximum award per calendar year:
 - a. **Each public agency** may be awarded up to \$1,500,000, and
 - b. **Each non-public entity** may be awarded up to \$500,000.
8. **Readiness:** Projects must commence in calendar year 2010 or sooner. For purposes of this policy, “commence” means to receive delivery of vehicles, equipment, services, or to award a construction contract.
9. **Maximum Two Years Operating Costs:** Projects that provide a service, such as ridesharing programs and shuttle and feeder bus projects, are eligible to apply for a period of up to two (2) years.
10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable, based on information the applicant received after the Board’s allocation of funding. The District will consider only requests that are based on new information, are within the same eligible project category, and meet the same cost-effectiveness.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for

any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.

12. **Failed Audit:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented. A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.
13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. The Air District Board of Directors approval of an application does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of 120 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

Project sponsors who failed to return a funding agreement from a previous funding cycle are not eligible to apply for a 12-month period.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies are not eligible for funding, nor are projects that only involve planning activities and that do not include an implementation phase. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.
16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare applications are not eligible for TFCA funding.
17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible. Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds for the funding of an eligible project. For the purpose of calculating the TFCA cost-effectiveness (Regional Fund Evaluation Criterion #1), the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.
19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.

- 20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES:

CLEAN AIR VEHICLE PROJECTS

- 21. **Reserved.**
- 22. **Heavy-Duty Alternative Fuel/ Hybrid Service Vehicles (Low-mileage utility trucks in idling service):**

Eligibility: For TFCA purposes, heavy-duty vehicles are on-road motor vehicles with a Gross Vehicle Weigh Rating (GVWR) of 10,001 pounds or heavier. This category includes only vehicles in which engine idling is required to perform the primary function (for example, crane or aerial bucket trucks). In order to qualify for this incentive, each new vehicle must be placed into a service route that has a minimum idling time of 520 hours/year, and a minimum mileage of 1,000 miles/year.

Maximum Award Amount (per vehicle): TFCA funds awarded may not exceed the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new conventional vehicle counterpart that meets, but does not exceed, the emissions standards (incremental cost). Maximum funding is set forth below:

GVWR, lbs	Idling Time	
	Average 2 - 4 hours/day	Average ≥ 4 hours/day
10,001-33,000	\$16,000	\$20,000
Greater than 33,000	\$25,000	\$30,000
Additional funds for scrapping pre-1998 vehicles	+ \$4000	+ \$4000

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1997 or older heavy-duty diesel vehicle for each new clean air vehicle purchased or leased with TFCA funds. Project sponsors with model year 1998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, meet this scrapping requirements. Applications that include scrapping components may receive additional credit towards the calculation of the overall cost effectiveness of the project. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

- 23. **Reserved.**
- 24. **Reserved.**
- 25. **Reserved.**

26. **Advanced Technology Demonstration Projects:** Only vehicle-based advanced technology demonstration projects (i.e., technologies, motor vehicles and/or emission control devices not certified by CARB) not already implemented in the Bay Area are eligible for funding under this category. Applicants must clearly demonstrate the potential for concurrent or future emission reductions due to implementation of the project, and must provide estimates of emission reductions. All projects will require before and after evaluation data. TFCA funding for each project is limited to 25% of the total project cost, not to exceed \$500,000.

SHUTTLE/FEEDER BUS SERVICE PROJECTS

27. **Shuttle/Feeder Bus Service:** Shuttle/feeder bus service projects are those requesting funds to operate a shuttle or feeder bus route to or from a rail station, airport, or ferry terminal. To be eligible, shuttle/feeder bus service schedules must be coordinated with connecting rail or ferry schedules.

Shuttle/feeder bus service applicants must either: a) be a public transit agency or, b) submit documentation from the General Manager of the transit agency that provides service in the area of the proposed shuttle route, which demonstrates that the proposed shuttle service does not duplicate or conflict with existing transit agency service.

All vehicles used in shuttle/feeder bus service must meet the applicable CARB standards for public transit fleets use one of the following types of shuttle/feeder bus vehicles:

- a. an alternative fuel vehicle (CNG, liquefied natural gas, propane, electric);
- b. a hybrid-electric vehicle;
- c. a post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
- d. a post-1989 gasoline-fueled vehicle.

Pilot shuttle/feeder bus service projects are required to meet a cost-effectiveness of \$125,000/ton during the first two years of operation (see Policy #2). A pilot project is a defined route that is at least 70% unique and has not previously been funded through TFCA. Applicants must provide data supporting the demand for the service, letters of support from potential users and providers, and plans for financing the service in the future.

RIDESHARING PROJECTS

28. **Regional Ridesharing Projects:** For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least three Bay Area counties. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.
29. **Reserved.**
30. **Reserved.**

REGIONAL FUND EVALUATION CRITERIA

Grant applications must comply with the TFCA Regional Fund Policies, and also are evaluated based on six criteria.

Both public agencies and non-public entities are eligible to receive points under Criteria 1, 2, 3, 5, and 6. Only public agencies are eligible to receive points under Criterion 4. The maximum possible score for a public agency is 100 points and the maximum possible score for a non-public entity is 90 points. A public agency must achieve a minimum score of 60 points to be considered for funding while a non-public entity must achieve a minimum of 54 points to be considered for funding.

Projects will be ranked by calculating the percentage of total eligible points scored (100 for public agencies and 90 for non-public entities) in descending order. In the event that two or more projects achieve an equal score, the project with the best TFCA cost-effectiveness will receive a higher ranking.

Available TFCA Regional Funds will be allocated to projects beginning with the highest ranking project and proceeding in sequence to lower ranking projects. If the TFCA Regional Fund is oversubscribed, the point where the next-ranked eligible project cannot be fully funded defines the cut-off point for the funding cycle, i.e., all projects above this point will be funded. If the Regional Fund is undersubscribed, any remaining funds are generally allocated to projects in the subsequent funding cycle. By mutual consent of the project sponsor and the Air District; grant awards may be reduced from the amount requested in the original application.

FY 2009/2010 TFCA Regional Fund Scoring Criteria

Criteria	Maximum Points
1. TFCA Funding Effectiveness*	60
2. Greenhouse Gas Emission Reductions*	10
3. Other Project Attributes*	5
4. Clean Air Policies and Programs**	10
5. Sensitive and PM Impacted Communities*	---
A. General	10
B. Highly-Impacted Communities	<i>High priority***</i>
6. Priority Development Areas*	5
Total	100

* Public agencies and non-public entities eligible to receive points.

** Only public agencies eligible to receive points.

***High priority is defined per Criterion 5 below.

DISCUSSION

Criterion 1: TFCA Funding Effectiveness (maximum 60 points)

Measures the cost-effectiveness (C-E) of a project in reducing air pollutant emissions. Generally, applications that include higher rates of matching funds will score better than those that request higher percentage of TFCA funding. TFCA funds budgeted for the project (TFCA Regional Funds and TFCA County Program Manager Funds combined) will be divided by the estimated lifetime emission reductions for the project. The estimated lifetime emission reductions are the sum of reactive organic gases, oxides of nitrogen, and weighted particulate matter (PM)¹ that will be reduced over the life of the project. Air District staff will determine the estimated emission reductions and TFCA funding effectiveness for the project.

The point scales for awarding points for this criterion are presented below:

a. For projects that must achieve a C-E threshold of \$90,000/ton:

TFCA \$/Ton	Points	TFCA \$/Ton	Points
\$0 - \$19,999	60	\$56,000 - \$57,999	53
\$20,000 - \$21,999	60	\$58,000 - \$59,999	52.5
\$22,000 - \$23,999	60	\$60,000 - \$61,999	52
\$24,000 - \$25,999	59.75	\$62,000 - \$63,999	51.5
\$26,000 - \$27,999	59.5	\$64,000 - \$65,999	51
\$28,000 - \$29,999	59.25	\$66,000 - \$67,999	50.5
\$30,000 - \$31,999	59	\$68,000 - \$69,999	50
\$32,000 - \$33,999	58.75	\$70,000 - \$71,999	49.5
\$34,000 - \$35,999	58.5	\$72,000 - \$73,999	49
\$36,000 - \$37,999	58	\$74,000 - \$75,999	48.5
\$38,000 - \$39,999	57.5	\$76,000 - \$77,999	48
\$40,000 - \$41,999	57	\$78,000 - \$79,999	47.5
\$42,000 - \$43,999	56.5	\$80,000 - \$81,999	47
\$44,000 - \$45,999	56	\$82,000 - \$83,999	46.5
\$46,000 - \$47,999	55.5	\$84,000 - \$85,999	46
\$48,000 - \$49,999	55	\$86,000 - \$87,999	45.5
\$50,000 - \$51,999	54.5	\$88,000 - \$89,999	45
\$52,000 - \$53,999	54	\$90,000 - and above	0
\$54,000 - \$55,999	53.5		

b. For Alternative Fuel/Hybrid Heavy-duty Clean Air Vehicles in Low Mileage Idling Service:

50 Points – (amount requested must be equal to or less than the allowable amounts listed in Policy 22.)

¹ PM emissions include tailpipe PM, as well as brake particles, tire particles and re-entrained road dust. Consistent with California Air Resources Board methodology to calculate PM emission reductions for the Carl Moyer Program, weighted PM emissions will be calculated by adding the tailpipe PM multiplied by a factor of 20, plus the sum of tire, brake, and road dust PM.

c. For projects that must achieve a C-E threshold of \$125,000/ton (Pilot Shuttles):

TFCA \$/Ton		Points	TFCA \$/Ton		Points
\$0	- \$19,999	60	\$74,000	- \$76,999	53
\$20,000	- \$22,999	60	\$77,000	- \$79,999	52.5
\$23,000	- \$25,999	60	\$80,000	- \$82,999	52
\$26,000	- \$28,999	59.75	\$83,000	- \$85,999	51.5
\$29,000	- \$31,999	59.5	\$86,000	- \$88,999	51
\$32,000	- \$34,999	59.25	\$89,000	- \$91,999	50.5
\$35,000	- \$37,999	59	\$92,000	- \$94,999	50
\$38,000	- \$40,999	58.75	\$95,000	- \$97,999	49.5
\$41,000	- \$43,999	58.5	\$98,000	- \$100,999	49
\$44,000	- \$46,999	58	\$101,000	- \$103,999	48.5
\$47,000	- \$49,999	57.5	\$104,000	- \$106,999	48
\$50,000	- \$52,999	57	\$107,000	- \$109,999	47.5
\$53,000	- \$55,999	56.5	\$110,000	- \$112,999	47
\$56,000	- \$58,999	56	\$113,000	- \$115,999	46.5
\$59,000	- \$61,999	55.5	\$116,000	- \$118,999	46
\$62,000	- \$64,999	55	\$119,000	- \$121,999	45.5
\$65,000	- \$67,999	54.5	\$122,000	- \$124,999	45
\$68,000	- \$70,999	54	\$125,000	- and above	0
\$71,000	- \$73,999	53.5			

d. For projects that must achieve a C-E threshold of \$500,000/ton (Advanced Technology Demonstration Projects):

TFCA \$/Ton		Points	TFCA \$/Ton		Points
\$0	- \$44,999	60	\$279,000	- \$291,999	50
\$45,000	- \$57,999	59.5	\$292,000	- \$304,999	49
\$58,000	- \$70,999	59	\$305,000	- \$317,999	48
\$71,000	- \$83,999	58.5	\$318,000	- \$330,999	47
\$84,000	- \$96,999	58	\$331,000	- \$343,999	46
\$97,000	- \$109,999	57.5	\$344,000	- \$356,999	45
\$110,000	- \$122,999	57	\$357,000	- \$369,999	44
\$123,000	- \$135,999	56.5	\$370,000	- \$382,999	43
\$136,000	- \$148,999	56	\$383,000	- \$395,999	42
\$149,000	- \$161,999	55.5	\$396,000	- \$408,999	41
\$162,000	- \$174,999	55	\$409,000	- \$421,999	40
\$175,000	- \$187,999	54.5	\$422,000	- \$434,999	39
\$188,000	- \$200,999	54	\$435,000	- \$447,999	38
\$201,000	- \$213,999	53.5	\$448,000	- \$460,999	37
\$214,000	- \$226,999	53	\$461,000	- \$473,999	36
\$227,000	- \$239,999	52.5	\$474,000	- \$486,999	35
\$240,000	- \$252,999	52	\$487,000	- \$499,999	34
\$253,000	- \$265,999	51.5	\$500,000	- and above	0
\$266,000	- \$278,999	51			

Criterion 2: Greenhouse Gas Emission Reductions (maximum 10 points)

Rewards projects that reduce greenhouse gas emissions. Awards a maximum of 10 points (on a sliding scale, 0 to 10 points) for projects that reduce emissions of greenhouse gases, predominately carbon dioxide. Generally, projects that promote alternative modes of transportation and reduce single occupant vehicle trips (e.g., transit, ridesharing, bicycling and walking), as well as projects that improve motor vehicle fuel economy, will reduce greenhouse gas emissions. TFCA funds budgeted for the project will be divided by the estimated lifetime emission reductions of greenhouse gases for the project. Air District staff will determine the estimated emission reductions, TFCA funding effectiveness for greenhouse gases, and the scale for awarding points.

Criterion 3: Other Project Attributes (maximum 5 points)

Provides a mechanism in the evaluation and scoring process to identify and assess desirable project attributes that are not captured in the analysis of TFCA funding effectiveness. Projects may score points under this criterion based upon other project attributes identified for each project type. The specific project attributes for each project type will be identified after grant applications have been received and reviewed. Examples of Other Project Attributes will be provided in TFCA Guidance document.

Criterion 4: Clean Air Policies and Programs (maximum 10 points)

Recognizes and encourages the efforts of public agencies to implement policies and programs that promote the region's air-quality objectives, especially land use and transportation policies that help to reduce air pollution from motor vehicles.

To receive points for this criterion, the sponsoring agency must describe its policies and actions to implement the transportation control measures (TCMs) in the most recently adopted strategy(ies) for State and national ozone standards throughout the agency's jurisdiction. Points will be awarded based upon the performance of the project sponsor in implementing those elements of each TCM which are within the purview of the sponsor agency.

Non-public entities are not eligible for points under this criterion.

Criterion 5: Sensitive and Particulate Matter (PM) Impacted Communities (maximum 10 points)

Under Criterion 5, grant applications are eligible for credit under two sub-criteria.

A. General: This sub-criterion will award a maximum of 10 points (on a sliding scale, 0-10 points) for projects that directly reduce emissions in communities with both high PM_{2.5} emissions and sensitive populations (i.e., children, seniors, those with low-incomes or elevated asthma rates).

B. Highly Impacted Communities: Additional credit will be given to projects in these communities by providing them with the maximum score of 10 points in this Criterion and an additional 5 points under Criterion 3 "Other Project Attributes" provided that they meet a minimum percentage of operations in highly impacted communities. These communities have been identified by the Air District as having the most severe health risk and relatively low income levels.

Both sub-criteria 5A and 5B are based on data from the Air District's Community Air Risk Evaluation (CARE) Program; maps that identify these communities will be made available on the Air District's website. To qualify for points, a project must directly benefit one or more of these communities. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the community, and the extent to which the project sponsor demonstrates this benefit.

Criterion 6: Priority Development Areas (maximum 5 points)

Awards additional points to projects located in concentrated areas identified for future growth near transit and in existing Bay Area communities. Funding projects operating in regionally approved Priority Development Areas (PDAs) will lead to reduced emissions in the region generally, and in PDAs in particular. Both public agencies and non-public entities are eligible for points under this criterion.

As with Criterion 5, to receive points for this criterion, the project must directly benefit one or more approved PDAs. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the PDA, and the extent to which the project sponsor demonstrates this benefit.

**COMMENTS RECEIVED AND STAFF RESPONSES:
DRAFT FY 2009/2010 TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA**

Draft Policy or Criterion	Comment	Staff Response	Commenter, Organization
Policy re: TFCA Cost-Effectiveness and Minimum Score	[Regarding the proposed increase in Cost-Effectiveness for Smart Growth and Traffic Calming from \$90,000 to \$180,000 and the proposed decrease in project useful life for these projects from 20 to 10 years:] Why not just leave it at \$90K over 20 years if it's the same thing as \$180K over 10 years. Most physical pedestrian improvements would last 20 years.	Air District Staff may propose to revise the cost-effectiveness to accommodate a corresponding shorter contractual period within the funding agreement (reduced from 20 years down to 5). Many projects typically will last longer than the funding agreement term.	Matt Nichols, Principal Transportation Planner, City of Berkeley
Policy re: TFCA Cost-Effectiveness and Minimum Score	[Commenter suggests that the TFCA cost-effectiveness (i.e., funding-effectiveness) levels be based on either reductions in emissions of criteria pollutants or greenhouse gas (GHG) reductions.]	Most projects funded by TFCA reduce vehicle travel and the use of petroleum fuel, and thus also GHGs. Based on the TFCA enabling legislation, reductions in criteria pollutants must remain the primary emphasis of the TFCA.	Sven Thesen, Communication and Technology Better Place
Policy re: TFCA Cost-Effectiveness and Minimum Score	Unless mandated by the State, we believe the Carl Moyer cost-effectiveness limit for heavy-duty clean air vehicles and diesel retrofits is too restrictive, assuming it is less than \$30,000 per ton. Other project types have much higher limits, such as light-duty vehicles at \$90,000 per ton. In addition, we are concerned that applicants may not be provided a methodology to precisely estimate cost-effectiveness in advance, and so may be "shooting in the dark." Please provide the actual dollar limit that will apply to these project types, and address the estimating concern.	Staff's analysis of previously funded projects shows that many heavy-duty vehicle projects met CMP Guidelines. In addition, aligning requirements of heavy duty vehicles with CMP requirements streamlines administration of vehicle projects.	Roger Hooson, Senior Planner, Landside Operations, San Francisco International Airport
Policy re: Cost-Effectiveness and Minimum Score (Pilot Shuttle projects, Shuttle/Feeder Bus Service)	This would raise the cost-effectiveness level maximum from \$90,000/ton to \$125,000/ton for pilot shuttle service projects which would create an unfair advantage over established shuttle service projects. Pilot shuttle service projects should have the same cost-effectiveness level maximum as the established shuttle service projects	The proposed increase in max. C-E level is in recognition that new shuttle services typically take one to two years to build ridership and that accurate ridership data may not be readily available.	Steve McClain, ACE Shuttle Program Manager, Santa Clara Valley Transportation Authority
Policy re: Eligible Recipient	[This policy] limits non-public entity grants. The examples given do not include new clean air vehicle deployments. Will these be allowed to the extent the emissions are surplus under CARB rules . . . ? We believe that non-public entities should be able to apply for grants for new clean air vehicles.	Staff has revised the wording of this policy in response to the comment, to clarify that non-public entities are eligible to apply for purchase of new heavy-duty vehicles.	Roger Hooson, Senior Planner, Landside Operations, San Francisco International Airport
Policy re: Eligible Recipient	TFCA grants may be awarded to non-public entities only for certain clean air vehicle projects including but not limited to engine repowers, engine retrofits, and advanced technology demonstrations as described in HSC Section 44241(b). What about the purchase of new or low-mileage vehicles? Even though it states "projects including but not limited to..." can you add purchase of new or low mileage vehicles?	Please see response immediately above. Additionally, staff is proposing finding for a new project category for low mileage "high idling" vehicles.	Ben Deal, Business Development Manager, Clean Energy Fuels

Comments Received And Staff Responses: Draft TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10

Policy re: Matching Funds	The 20% matching funds requirement is double the previous requirement and may have a considerable impact on our ACE shuttle service. This could necessitate a reduction of our shuttle service, which would increase motor vehicle emissions.	Air District staff is proposing to maintain the current 10% match requirement on requests above \$150,000 and will review potential changes for the next funding cycle.	Steve McClain, Santa Clara Valley Transportation Authority
Policy re: Matching Funds	[Commenter suggested deleting the increased matching requirement for projects requesting more than \$300,000.]	Please see the comment immediately above.	Sven Thesen, Better Place
Policy re: Matching Funds	There needs to be an option that addresses the potential of outside funding that may come in at a later date, e.g., federal funding. Project scope would be then defined under two or more funding scenarios based on additional funding from outside sources, with the potential for more funding from the district and applicant themselves.	Please see the comment immediately above.	Sven Thesen, Better Place
Policy re: Maximum Grant Amount	Commenter suggests increasing the proposed maximum grant amount per entity from [the draft amount of] \$1,500,000 to \$2,000,000.	Air District staff is proposing maximum awards per calendar year of \$1,500,000 per public agency and \$500,000 per non-public entity. Staff will continue to monitor this policy, and may propose changes in the future.	Sven Thesen, Better Place
Policy re: Maximum Grant Amount	<p>We are concerned with the potential implication that the increase in the maximum funding cap for non-public entities from \$500,000 to \$1,500,000, could have on beneficial public transportation projects. . . .</p> <p>Current proposed TFCA emission criteria do not take into account the cumulative impacts if an existing service, such as Caltrain's shuttle program were discontinued or drastically reduced due to the potential loss of TFCA funds. The Caltrain shuttle program serves approximately 1.6 million riders annually and over 6,000 riders per average weekday w/ an average trip length of 26 miles from home to work. In addition to the potential increase of emissions that could result from an increase in car trips for those that would decide to drive as opposed to using CalTrain for their trip to work, the congestion on adjacent arterials and freeways . . . would increase significantly . . .</p> <p>The public sector . . . does not have the same ability to raise revenue as the private sector, which can raise fees/charges based on what the market will bear.</p>	Please see the responses immediately above.	Anne Louise Rice, Deputy Director, Capital Program Support, San Mateo County Transit District
Policy re: Readiness	This [requirement that only projects that would commence in calendar year 2010 or sooner would be considered] seems too onerous. Readiness is not the same thing as a project initiation deadline. TFCA Funding Agreements are usually sent out in January, with a 60-day turn-around. So a project may not even be formally funded until March. Also, the funding agreement already requires completion within 2 years – so why have a project initiation deadline? Sometimes projects need development (engineering, [environmental]) prior to construction award, yet the project could still be completed on time.	Air District staff is proposing to maintain the current policy. Staff will continue to monitor this policy, and may propose changes in the future.	Matt Nichols, City of Berkeley

Comments Received And Staff Responses: Draft TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10

	In addition, private sector proposals such as clean air vehicle projects, are eligible for Federal tax credits, an additional financial benefit that is not available to public agencies. In order to more effectively distribute TFCA funds to a wider array of project sponsors, perhaps the Air District could net out the savings from eligible tax credits when awarding funds to private sponsors.	Staff will evaluate this suggestion and may propose changes in the future.	Anne Louise Rice, San Mateo County Transit District
Policy re: Duplication	Could you also please describe how applicants find out about "existing TFCA funded projects" (e.g., will there be a list?) Could you please describe or define somewhere what an "existing TFCA funded project" is and/or how a project becomes "existing"? For example, if a project can only be funded one year at a time, is it automatically an "existing" project if it has been funded in the previous year and is applying for funds in the upcoming year?	This information is available on-line and applicants are encouraged to contact Air District staff for additional information regarding project status. In addition, the continuation of a project that provides a service is not considered duplication.	Susan Heinrich, 511 Rideshare & Bicycling Coordinator, Metropolitan Transportation Commission (MTC)
Policy re: Duplication	If applications are submitted for projects that duplicate each other, and neither is an "existing TFCA funded project," how will the Air District determine which is duplicative?	In such a case, Air District staff would select the highest-scoring project and would not select the lower-scoring project. Applicants are encouraged to coordinate with potential partners, to avoid such situations.	Susan Heinrich, MTC
Policy re: Expend Funds within Two Years	Any public agency or non-public entity awarded a TFCA Regional Fund grant must expend the awarded funds within two (2) years of the effective date of the funding agreement...Does this mean that the cost effectiveness of the project is based on a 2-year life? Please clarify.	The authorizing legislation requires TFCA funds to be expended within two years. This policy does not apply to project useful life nor to cost-effectiveness.	Ben Deal, Clean Energy Fuels
Policy re: Light Duty Clean Air Vehicle	[Re: the definition of incremental cost as the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new compliant conventional vehicle counterpart.] In assessing the eligibility of vehicles and calculating the emissions reductions, can there be greater incentives for measuring the emissions reductions based up on the vehicle they are replacing with a clean air vehicle rather than the new compliant conventional vehicle counterpart.	The draft policy follows a practice that is standard for CARB and for past TFCA awards. Staff will continue to monitor this policy, and may propose changes in the future.	Ben Deal, Clean Energy Fuels
Policy re: New Heavy-Duty Clean Air Vehicles	We do not favor application of stringent Carl Moyer [Program (CMP)] cost-effectiveness limits to TFCA-funded new heavy duty vehicles.	Staff's analysis of previously funded projects shows that many heavy-duty vehicle projects have been able to meet CMP Guidelines. In addition, aligning requirements of heavy duty vehicles with CMP requirements streamlines administration of vehicle projects. Staff will continue to monitor this policy, and may propose changes in the future.	Roger Hooson, San Francisco International Airport
Policy re: Reducing Emissions from Existing Heavy-Duty Diesel Engines	Is the mileage limit a typo? We don't understand why diesel emissions filters could only be funded on vehicles that operate 25,000 miles or less per year. Presumably, the higher the annual mileage, the more cost-effective the filter installation.	Generally, higher the annual mileage, the more cost-effective the vehicle project.	Roger Hooson, San Francisco International Airport
Policy re: Clean Air Vehicle Infrastructure	We strongly support the availability of TFCA funds for clean air vehicle infrastructure, as proposed	Staff appreciates the input, is evaluating policy options regarding infrastructure, and later this year, plans to propose infrastructure as a new category for funding.	Roger Hooson, San Francisco International Airport

Comments Received And Staff Responses: Draft TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10

Policy re: Clean Air Vehicle Infrastructure	[Commenter suggests increasing the maximum level of funding from \$500,000 to \$1,000,000 per project.]	Air District staff is proposing to maintain the current policy. Staff will continue to monitor this policy, and may propose changes in the future.	Sven Thesen, Better Place
Policy re: Clean Air Vehicle Infrastructure	This provision should explicitly include infrastructure enablement projects as well. These kinds of projects are essential for ensuring that large planned developments are ready to service alternative vehicles, this will reduce infrastructure costs and accelerate adoption rates in the long term.	The authorizing legislation requires TFCA projects to reduce emissions from motor vehicles. Later this year, staff plans to propose infrastructure as a new category for funding.	Sven Thesen,
Policy re: Advanced Technology Demonstration Projects	[Commenter suggests that policy apply to "vehicle-focused", versus "vehicle-based" projects.]	Staff will evaluate this suggestion and may propose changes in the future.	Better Place
Policy re: Advanced Technology Demonstration Projects	[Commenter suggests a funding limit not to exceed \$1,000,000, versus \$500,000.]	Air District staff is proposing to maintain the current policy in order to maximize the number of funding awards in the region. Staff will continue to monitor this policy, and may propose changes in the future.	Sven Thesen, Better Place
Policy re: Advanced Technology Demonstration Projects	We believe that the previous year's requirement (that applicants provide "best available data" to estimate project cost-effectiveness) is a more practical method of assessing a demonstration project's value. Thus we ask that the Air District provide more guidance on how an applicant can demonstrate future emissions reductions for projects like these.	Staff will provide more detail in the Application Guidance for assessing cost-effectiveness.	Sven Thesen, Better Place
Policy re: Smart Growth and Traffic Calming	You should give examples of pedestrian projects. TFCA wouldn't fund sidewalk repair. Would it fund curb cuts.	The Application Guidance will provide more details, e.g., that sidewalk repair is not TFCA-eligible.	Matt Nichols, City of Berkeley
Policy re: Smart Growth and Traffic Calming	So a bulb-out or traffic circle would need final 100% design prior to the TFCA application? That's not how things work – one might have 60%, or adopted standards, but it'd be rare to complete design without any funding in place.	Staff is proposing revised language to clarify this policy and to ensure that projects are viable.	Matt Nichols, City of Berkeley
Criterion #1: TFCA Funding Effectiveness, and Criterion #2: Greenhouse Gas Emission Reductions	[The commenter suggests including greenhouse gases as well as criteria pollutants, in the calculation of cost-effectiveness. This would include a new table listing points awarded for greenhouse gas cost-effectiveness.] In the Regional Fund Grant Application Guidance for Fiscal Year 2008/2009 document, include a new table (potentially called) "Point Scale for Greenhouse Gases" similar to the one and following the one on page 6 (Point Scale for Criterion 1) The objective here is to include metrics that puts GHG reductions on parity with criteria reductions.	Please see response to the comment from Better Place on Policy #3, above.	Sven Thesen, Better Place
Criterion #2: Greenhouse Gas Emission Reductions	Can you provide the TFCA funding effectiveness scale for awarding points for GHG [(greenhouse gas)] reductions?	As the GHG funding effectiveness varies widely by project and by year, staff proposes to continue to award points based on an analysis of the projects received, in order to differentiate relatively high-performing projects from low-performing ones.	Ben Deal, Clean Energy Fuels

Comments Received And Staff Responses: Draft TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10

<p>Criterion #2: Greenhouse Gas Emission Reductions</p>	<p>Clean Energy partnered with TIAX, an independent firm who is well respected by both CARB and the CEC (Energy Commission), to compare the GHG emissions for taxi vehicles. The use of CNG compared to gasoline is extremely beneficial in meeting sustainability, carbon footprint goals and reducing GHG emissions. Natural gas has clear advantage when it comes from a renewable source, such as landfill gas (LFG). When LFG is dedicated or blended, the already lower CNG powered taxis get a further GHG reduction of almost 88%. Both the Honda Civic GX and Ford Crown Victoria CNG are less than 25% of the impact of the gasoline-hybrid powered Prius. I have attached a copy of the report for your review. Will the TFCA funding take into account the opportunity for increased incentives (more points) for LFG/renewable natural gas benefits for GHG emission reductions?</p>	<p>All project sponsors are encouraged to contact Air District staff to discuss their projects. Staff will evaluate all information provided by applicants about estimated emission reductions, and the basis for those estimates.</p>	<p>Ben Deal, Clean Energy Fuels</p>
<p>Criterion #2: Greenhouse Gas Emission Reductions</p>	<p>While I support this, in practice, how does GHG emissions differ from the TFCA funding effectiveness? When would GHG diverge from air pollution reduction? If they are always parallel, then these points should just be combined with funding effectiveness – or be allocated on the same scoring scale.</p>	<p>Air District staff is proposing to maintain the current policy. GHG reductions from a project often are not proportional to reductions of other pollutants.</p>	<p>Matt Nichols, City of Berkeley</p>
<p>Criterion #3: Other Project Attributes</p>	<p>Commenter suggests adding, "Project attributes may be identified and quantified by the applicant as part of the application; however, Air District staff will make the final determination and associated point rating."</p>	<p>Staff concurs with the comment, and plans to include similar information in the Guidance.</p>	<p>Sven Thesen, Better Place</p>
<p>Criterion #3: Other Project Attributes</p>	<p>Example attributes include, but are not limited to, projects that lead to improvements in California water quality, reductions in California's reliance on fossil fuels and increased demand for renewable energy."</p>	<p>Staff plans to include example attributes in the Application Guidance.</p>	<p>Sven Thesen, Better Place</p>
<p>Criterion #6: Priority Development Areas (PDAs)</p>	<p>Priority Development Areas (PDAs) were instituted to encourage higher-density infill development where resident and employee transportation needs can be met through transit, walking and biking. . . If the purpose of this criterion is to further the goals of the FOCUS/PDA program, then the criteria needs to ensure the project in fact meets both the spirit and the letter of the policy.</p>	<p>Staff will ensure that applications are awarded credit according to the Criterion, by, e.g., verifying applicants' claims of the location of project operations.</p>	<p>Anne Louise Rice, San Mateo County Transit District</p>
<p>Application process</p>	<p>We are requesting that the application process be streamlined to allow for signed funding agreements to be in place by the project start date and/or beginning of the fiscal year. Below are two possibilities for how this could be done:</p> <ul style="list-style-type: none"> • Move the application deadline up (before July) so that projects could be awarded and decisions finalized in advance of the Air District's fiscal year. • Related to policy #12, applicants could be permitted to apply for two years of project funding in a given application, and/or apply for funding one year in advance of the proposed project start date. This would allow for administrative details to be worked out in advance of the project start date. Related to policy #10, applicants could be permitted to apply for more than \$1,500,000 if applying for more than one fiscal year. 	<p>Air District staff will be proposing shifting to an on-going call for in FY 09/10. Additionally, staff is proposing to phase in the call for projects, to avoid bottlenecking of the application approval process, beginning with shuttles, regional rideshare, advanced technology demonstrations, and alternative fuel/hybrid vehicle projects.</p>	<p>Susan Heinrich, MTC</p>
<p>Application process</p>	<p>In the new cycle, applications would be received, and/or grants awarded, throughout the year. I don't see reference to this feature in the draft policies.</p>	<p>Air District staff will be proposing shifting to an on-going call for FY 09/10 TFCA Regional Fund Program.</p>	<p>Roger Hooson, San Francisco International Airport</p>

BOARD ADOPTED PROPOSED TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2008/09 2009/10

The following policies apply only to the Transportation Fund for Clean Air (TFCA) Regional Fund.

BASIC ELIGIBILITY

1. **Reduction of Emissions:** A project must Eligible Projects: Only projects that result in the reduction of motor vehicle emissions within the Air District’s jurisdiction to be considered eligible for TFCA funding. Projects that are subject to emission reduction regulations, contracts, or other legally binding obligations must achieve surplus emission reductions to be considered for TFCA funding. Surplus emission reductions are those that exceed the requirements of applicable regulations or other legally binding obligations at the time the Air District Board of Directors approves a grant award. Planning activities (e.g., feasibility studies) that are not directly related to the implementation of a specific project are not eligible for TFCA funding.;

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/10.

Projects must achieve surplus emission reductions, that is, beyond what is currently required through regulations, contracts, or other legally binding obligations at the time the Air District Board of Directors approves a funding allocation and at the time of the execution of a funding agreement.

2. **TFCA Cost-Effectiveness and Minimum Score:** The Air District Board of Directors will not approve any grant application for TFCA Regional Funds for a project that has: a) a TFCA cost-effectiveness (i.e., funding-effectiveness) level greater than \$90,000 of TFCA funds per ton (\$/ton) of total Projects must meet cost-effectiveness (C-E) levels and minimum scores established by the Air District’s Board of Directors.

a. **Cost-Effectiveness:** The ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) emissions reduced; or b) (\$/ton). Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below:

<u>Cost-effectiveness levels are limited to the amounts set forth below.</u>		
<u>Project Type</u>	<u>Policy #</u>	<u>C-E level maximum (\$/weighted ton)</u>
<u>Shuttle/Feeder Bus Service—Established</u>	<u>27</u>	<u>\$90,000</u>
<u>Shuttle/Feeder Bus Service—Pilot</u>	<u>27</u>	<u>\$125,000</u>
<u>Regional Ridesharing</u>	<u>28</u>	<u>\$90,000</u>
<u>(NEW) Heavy-Duty Alternative Fuel/ Hybrid Service Vehicles (Low-mileage utility trucks in idling service):</u>	<u>22</u>	<u>\$90,000</u>
<u>Advanced Technology Demonstration</u>	<u>26</u>	<u>\$500,000</u>

- b. **Minimum Score:** In addition, applicants must earn a score of less than 40 at least 60 points (out of a possible 100 points) for public agencies and less than 3654 points (out of a possible 90 points) for non-public entities, based upon the project evaluation and scoring criteria listed in the 2008FY 2009/10 TFCA Regional Fund Application Guidance document.
3. **Consistent with Existing Plans and Programs:** All projects must conform to the types of projects listed in the California Health and Safety Code Section 44241 and the With the exception of Clean Air Vehicle Projects and Advanced Technology Demonstration Projects, all other project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for State and national ozone standards and, when applicable, with other adopted State, regional, and local plans and programs.
4. **Viable Project:** Each grant application should clearly identify sufficient resources to complete the respective project. Grant applications that are speculative in nature, or contingent on the availability of unknown resources or funds, will not be considered for funding.
4. **5. Eligible Recipients:** Public agencies and non-public entities are eligible for TFCA grants. **and Authority to Apply:** Grant recipients must be responsible for the implementation of the project and must have the authority and capability to complete the project. and be an applicant in good standing.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible for TFCA grants to implement certain Clean Air Vehicle projects to reduce mobile source emissions within the Air District's jurisdiction for the duration of the useful life of the vehicles or reduced emission equipment. Only public agencies, including public agencies applying on behalf of non-public entities, are eligible for TFCA grants for light-duty vehicles to apply for new electric/alternative-fuel/hybrid heavy-duty vehicles, and advanced technology demonstrations, as described in HSC section 44241(b)7.
 - b. **Authority to Apply: Applications** must include either: a1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or b2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
6. **Public Agencies Applying on Behalf of Non-Public Entities:** A public agency may apply for TFCA Regional Fund grants for clean air vehicles on behalf of a non-public entity. As a condition of receiving TFCA Regional Funds on behalf of a non-public entity, the public agency shall enter into a funding agreement with the Air District and provide a written, binding agreement to operate the reduced emission equipment within the Air District's jurisdiction for the duration of the project life of the equipment as stated in the funding agreement between the Air District and the grant recipient.
5. **Viable Project and Matching Funds:** Unless otherwise specified in the project category policies below, applications of \$150,000 or less do not require matching funds. Applications

requesting greater than \$150,000 must provide matching funds from a non-Air District source, which equal or exceed 10% of the total project cost.

Applications must identify sufficient resources to complete the respective project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.

7. Matching Funds: The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured. For grant applications requesting greater than \$150,000 in TFCA Regional Funds, project sponsors must provide matching funds from non-Air District sources, which equal or exceed 10% of the total project cost. TFCA County Program Manager Funds do not count toward fulfilling the non-Air District matching funds requirement. Grant applications for TFCA Regional Funds of \$150,000 or less may request 100% TFCA funding.

8. Documentation of Commitment to Implement Project: TFCA Regional Fund grant applications If such documentation is not received within thirty (30) calendar days after the grant application submittal deadline, a grant application may be returned to the project sponsor and may not be scored.

6. Minimum Grant Amount: \$10,000 per project.

9. Minimum Grant Amount: Only projects requesting \$10,000 or more in TFCA Regional Funds will be considered for funding.

7. Maximum Grant Amount: Maximum award per calendar year:

a. Each public agency may be awarded up to \$1,500,000, and

b. Each non-public entity may be awarded up to \$500,000.

10. Maximum Grant Amount: No single public agency project may receive more than \$1,500,000 in TFCA Regional Funds in any given funding cycle. No single non-public entity may be awarded more than \$500,000 in TFCA Regional Funds, for any number of projects, in any given fiscal year.

8. Readiness: Projects must commence in calendar year 2010 or sooner. For purposes of this policy, “commence” means to order or accept receive delivery of vehicles or other, equipment being purchased as part of the project, to begin delivery of the service or product provided by the project, services, or to award a construction contract.

11. Readiness: A project will be considered for TFCA funding only if the project would commence in calendar year 2009 or sooner.

9. 12. Maximum Two Years Operating Costs: TFCA grant applicationsProjects that request operating funds to provide a service, such as ridesharing programs and shuttle and feeder bus projects, are eligible for TFCA funding for to apply for a period of up to two (2) years. Grant applicants who seek TFCA funding for additional years must re-apply in the subsequent funding cycles.

10. 13. Project Revisions: If revisions become necessary for a project that has been approved for TFCA funding by the Air District Board of Directors, the revised project must be within the same eligible project category and receive a point score higher than the funding cut-off

point, based upon the scoring criteria, for the funding cycle in which the project originally received a grant award. Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable, based on information the applicant received after the Board's allocation of funding. The District will consider only requests that are based on new information, are within the same eligible project category, and meet the same cost-effectiveness.

APPLICANT IN GOOD STANDING

11. 14. Monitoring and Reporting In Compliance with Agreement Requirements:

Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any previously project funded TFCA Regional Fund project will by the Air District may not be considered eligible for new funding for the current funding cycle, and until such time as all of the unfulfilled obligations are met.

12. **15. Failed Audit:** Project sponsors who have failed either the TFCA a fiscal audit or thea performance audit for a prior TFCA-Air District funded project will be excluded from future funding for five (5) years, or a different period of time determined by the Air District Air Pollution Control Officer (APCO). Existing TFCA funds already awarded to the project sponsor will not be released . Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented. A failed fiscal audit means an uncorrected TFCA audit finding that confirms an ineligible expenditure of TFCA funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

13. **16. Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes a final approval and obligation on the part of the Air District to fund District's award of funds for a project. While theThe Air District Board of Directors approval of grant awards is necessary for the funding of a project, such approval an application does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within two (2) months 60 days from the date it has been transmitted to them in order to remain eligible for the awardedaward of TFCA grant. funds. The Air District may authorize extensions for just cause. Grant applications will not be consideredan extension of up to a total period of 120 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

Project sponsors who were awarded TFCA grants in failed to return a funding agreement from a previous funding cycle and have not signed a funding agreement with the Air District by the current TFCA Regional Fund grant application deadline.

17. Implementation: Project sponsors that have a signed funding agreement for a prior TFCA-funded project, but have not yet implemented that project by the current TFCA Regional Fund grant application deadline will not be considered for TFCA funding for any new project. The phrase "implemented that project" means that the project has moved beyond initial planning stages and the project is being implemented consistent with the implementation schedule specified in the project funding agreement. In addition, project sponsors that are not in compliance with the terms of an existing TFCA funding agreement (e.g., operating the equipment and services for the full term of

the agreement, and notifying the Air District of any change in operational status of equipment or service) may not be considered for TFCA funding for any new project.

18. Payments: No payment requests associated with the implementation of a project will be processed if: a) the funding agreement for the project has not been fully and properly executed, b) the costs in the payment request were incurred (i.e., an obligation was made to pay funds that cannot be refunded) before the date that the funding agreement was executed, or c) the project is no longer eligible for TFCA funding (e.g., due to additional information becoming available after grant award approval by the Air District Board of Directors)to apply for a 12-month period.

14. **19. Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance as that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies are not eligible for funding, nor are projects that only involve planning activities and that do not include an implementation phase. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.

16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare applications are not eligible for TFCA funding.

17. **20. Duplication:** Projects that have previously received TFCA funds Grant applications for projects that duplicate existing TFCA-funded projects and therefore do not achieve additional emission reductions will not be considered for funding are not eligible. Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **21. Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds for the funding of an eligible project. For the purpose of calculating the TFCA cost-effectiveness (Regional Fund Evaluation Criterion #1), the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.

22. Cost of Developing Proposals: The costs of developing proposals or grant applications for TFCA funding are not eligible to be reimbursed with TFCA funds.

19. **23. Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project. To be eligible for reimbursement, administrative costs must be clearly identified in the TFCA Regional Fund grant application project budget and in the funding agreement between the Air District and the project sponsor.

20. **24. Expend Funds within Two Years:** Any public agency or non-public entity awarded a TFCA Regional Fund grant Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District. in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES:

CLEAN AIR VEHICLE PROJECTS

21. Reserved. 25. Light-Duty Clean Air Vehicles

Eligibility: For TFCA purposes, light-duty vehicles are those with a gross vehicle weight (GVW) of 10,000 pounds or lighter. Only public agencies, including public agencies applying on behalf of non-public entities, are eligible for TFCA grants for light-duty vehicles. New light-duty chassis vehicles certified by the California Air Resources Board (CARB) as meeting established super ultra low emission vehicle (SULEV), partial zero emission vehicle (PZEV), advanced technology-partial zero emission vehicle (AT-PZEV), or zero emission vehicle (ZEV) standards are eligible for TFCA funding. Hybrid-electric vehicles that meet the SULEV, PZEV, AT-PZEV, or ZEV standards are eligible for TFCA funding. Gasoline and diesel vehicles are not eligible for TFCA funding. Vehicle infrastructure is not eligible for TFCA funding except under policy #29.

Funding participation: Project sponsors may be awarded TFCA funds to cover no more than the incremental cost of a clean air vehicle. Incremental cost is

22. Heavy-Duty Alternative Fuel/ Hybrid Service (Low-mileage utility trucks in idling service):

Eligibility: For TFCA purposes, heavy-duty vehicles are on-road motor vehicles with a Gross Vehicle Weigh Rating (GVWR) of 10,001 pounds or heavier. This category includes only vehicles in which engine idling is required to perform the primary function (for example, crane or aerial bucket trucks). In order to qualify for this incentive, each new vehicle must be placed into a service route that has a minimum idling time of 520 hours/year, and a minimum mileage of 1,000 miles/year.

Maximum Award Amount (per vehicle): TFCA funds awarded may not exceed the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new conventional vehicle counterpart that meets, but does not exceed, the emissions standards. (incremental cost). Maximum funding is set forth below:

<u>GVWR, lbs</u>	<u>Idling Time</u>	
	<u>Average 2 - 4 hours/day</u>	<u>Average ≥ 4 hours/day</u>
<u>10,001-33,000</u>	<u>\$16,000</u>	<u>\$20,000</u>
<u>Greater than 33,000</u>	<u>\$25,000</u>	<u>\$30,000</u>
<u>Additional funds for scrapping pre-1998 vehicles</u>	<u>+\$4000</u>	<u>+\$4000</u>

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 19931997 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 19931997 or older heavy-duty diesel vehicle for each new clean air vehicle purchased or leased with TFCA funds. Project sponsors with model year 19941998 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, scrap an existing operational model year 1994 or newer heavy-duty diesel vehicle within their fleet. Emission reductions associated with meet this scrapping an existing operational heavy-duty diesel

vehicle will be factored into the calculations requirements. Applications that include scrapping components may receive additional credit towards the calculation of the overall cost effectiveness of the project. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

22. 23. Reserved.26. New Heavy-Duty Clean Air Vehicles

Eligibility: For TFCA purposes, heavy-duty vehicles are on-road motor vehicles with a GVW of 10,001 pounds or heavier. Vehicle infrastructure is not eligible for TFCA funding except under policy #29.

Funding Participation may be awarded TFCA funds to cover no more than the incremental cost of the new clean air vehicle. This provision includes public transit agencies that have elected to pursue the alternative fuel path under CARB's urban transit bus regulation. Incremental cost is the difference in the purchase or lease price of the new clean air vehicle that surpasses the applicable emissions standards and its new diesel counterpart that meets, but does not exceed, the emissions standards.

Scrapping Requirements: Project sponsors of heavy-duty clean air vehicles purchased or leased with TFCA funds that have model year 1993 or older heavy-duty diesel vehicles in their fleet are required to scrap one model year 1993 or older heavy-duty diesel vehicle for each new clean air vehicle purchased or leased with TFCA funds. Project sponsors with model year 1994 and newer heavy-duty diesel vehicles in their fleet may, but are not required to, scrap an existing operational model year 1994 or newer heavy-duty diesel vehicle within their fleet. Emission reductions associated with scrapping an existing operational heavy-duty diesel vehicle will be factored into the of the overall cost effectiveness of the project. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

24. Reserved .27. Reducing Emissions from Existing Heavy-Duty Engines:

Options available to reduce emissions from existing heavy-duty engines include:

- a) Repowers – To be eligible for TFCA funding, the new engine selected to repower an existing heavy-duty vehicle must reduce emissions by at least 15 percent compared to the direct exhaust emission standards of the existing engine that will be replaced.
- b) Diesel Emission Control Strategies – Diesel emission control strategies (e.g., retrofit devices) compatible with existing heavy-duty diesel engines are eligible for TFCA funding, subject to the conditions described below:
 - 1) All control strategies must be verified by CARB to reduce emissions from the relevant engine;
 - 2) TFCA will fund, at most, the incremental cost (over what is standard or required by regulation) of the emission control strategy; and
 - 3) The project sponsor must install the highest level (i.e., most effective) diesel emission control strategy that is verified by CARB for the specific engine.
- c) Clean Fuels or Additives – Clean fuels or additives compatible with existing heavy-duty engines are eligible for TFCA funding, subject to the conditions described below:
 - 1) All clean fuels or additives must be approved by CARB to reduce emissions and for use with the relevant engine; and
 - 2) TFCA will fund, at most, the incremental cost (over what is standard or required by regulation) of the clean fuel or additive.

d)Replacement of Compressed Natural Gas (CNG) Fuel Tanks – The replacement of CNG fuel tanks will only be considered for projects that achieve surplus emissions via repowers or emission control strategies, described in a) and b) above.

13.**25. Reserved.** **Bus Replacements:** For purposes of transit and school bus replacement projects, a bus is any vehicle designed, used, or maintained for carrying more than fifteen (15) persons, including the driver. A vehicle designed, used, or maintained for carrying more than ten (10) persons, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, is also a bus. A vanpool vehicle is not considered a bus.

26. **29. Advanced Technology Demonstration Projects:** Only Vehicle- vehicle-based advanced technology demonstration projects (i.e., technologies, motor vehicles and/or emission control devices not certified by CARB) are eligible for TFCA funding.not already implemented in the Bay Area are eligible for funding under this category. Grant applications for such projects must include best available data that can be used to estimate the cost-effectiveness of such projects. For motor vehicles, only projects that achieve emissions performance beyond CARB’s most stringent adopted regulatory requirements are eligible for funding under this category. For infrastructure projects, only applications that include vehicles and that include advanced technologies not currently being implemented in the Bay Area qualify for funding. Applicants must clearly demonstrate the potential for concurrent or future emission reductions due to implementation of the project, and must provide estimates of emission reductions. All projects will require before and after evaluation data. TFCA funding for each project is limited to 25% of the total project cost, not to exceed \$500,000.

SHUTTLE/FEEDER BUS SERVICE PROJECTS

24.27. 30. Shuttle/Feeder Bus Service: Shuttle/feeder bus service projects are those requesting funds to operate a shuttle or feeder bus route. The service route must go to or from a rail station, airport, or ferry terminal, and the project must: . To be eligible, shuttle/feeder bus service schedules must be coordinated with connecting rail or ferry schedules.

Shuttle/feeder bus service applicants must either: a) Be submitted by be a public transit agency; or, b) Be accompanied by submit documentation from the General Manager of the transit agency that provides service in the area of the proposed shuttle route, which demonstrates that the proposed shuttle service does not duplicate or conflict with existing transit agency revenue service.

All shuttle/feeder bus service to rail or ferry stations must be timed to meet the rail or ferry lines being served.

Independent (non-transit agency) shuttle/feeder bus projects that received TFCA funding prior to FY 2007/08 and obtained a letter of support from all potentially affected transit agencies need not comply with b) above unless funding is requested for a new or modified shuttle/feeder bus route.

All vehicles used in any shuttle/feeder bus service must meet the applicable CARB particulate matter (PM) standards for public transit fleets. For the purposes of TFCA funding, shuttle projects comply with these standards by using use one of the following types of shuttle/feeder bus vehicles:

- a. a) an alternative fuel vehicle (CNG, liquefied natural gas, propane, electric);
- b. b) a hybrid-electric vehicle;

- c. c) a post-1994 diesel vehicle and a diesel emission control strategy verified by CARB to reduce emissions from the relevant engine; or 1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
- d. d) a post-1989 gasoline-fueled vehicle.

No other types of vehicles, except for those listed in a) through d) immediately above, are eligible for funding as shuttle/feeder bus

Pilot shuttle/feeder bus service projects are required to meet a cost-effectiveness of \$125,000/ton during the first two years of operation (see Policy #2). A pilot project is a defined route that is at least 70% unique and has not previously been funded through TFCA. Applicants must provide data supporting the demand for the service projects., letters of support from potential users and providers, and plans for financing the service in the future.

REGIONAL RIDESHARING PROJECTS

- 28. Regional Ridesharing Projects: For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least three Bay Area counties. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor Grant applications will not be considered for funding. For projects that provide such subsidies, the direct or indirect financial transit or rideshare subsidy must be available, in addition to the employees of the project sponsor, to employees other than those of the project sponsor. are not eligible.

ARTERIAL MANAGEMENT PROJECTS

31. 29. Reserved. Arterial Management: Arterial management grant applications must specifically identify a given arterial segment and define what improvement(s) will be made to affect traffic flow on the identified arterial segment. Projects that provide routine maintenance (e.g., responding to citizen complaints about malfunctioning signal equipment) are not eligible to receive TFCA funding. Incident management projects on arterials are eligible to receive TFCA funding. Transit improvement projects include, but are not limited to, bus rapid transit and transit priority projects. For signal timing projects, TFCA funds may only be used for local arterial management projects where the affected arterial has an average daily traffic volume of 20,000 motor vehicles or more, or an average peak hour traffic volume of 2,000 motor vehicles or more.

SMART GROWTH PROJECTS

32. 30. Reserved Smart Growth/Traffic Calming: Physical improvements that support development projects and/or calm traffic, resulting in motor vehicle emission reductions, are eligible for TFCA funds subject to the following conditions: a) the development project and the physical improvements must be identified in an approved Priority Development Area, area-specific plan, redevelopment plan, general plan, bicycle plan, traffic-calming plan, or other similar plan; and b) the project must implement one or more of the transportation control measures (TCMs) in the most recently adopted Air District strategy for State and national ozone standards. Pedestrian projects are eligible to receive TFCA funding. Traffic calming projects are limited to physical improvements that reduce vehicular speed by design and improve safety conditions for pedestrians, bicyclists or transit riders in residential and retail areas.

BICYCLE PROJECTS (SEE SEPARATE BICYCLE FACILITY PROGRAM GUIDELINES.)

REGIONAL FUND EVALUATION CRITERIA

Grant applications must comply with the TFCA Regional Fund Policies, and also are evaluated based on six criteria. New for FY2008/2009, grant applications that meet a threshold for emission reductions in six highly impacted communities listed under Criterion 5, Sensitive and PM Impacted Communities, will receive Top priority.

Both public agencies and non-public entities are eligible to receive points under Criteria 1, 2, 3, 5, and 6. Only public agencies are eligible to receive points under Criterion 4. The maximum possible score for a public agency is 100 points and the maximum possible score for a non-public entity is 90 points. A public agency must achieve a minimum score of 4060 points to be considered for funding while a non-public entity must achieve a minimum of 3654 points to be considered for funding.

Projects will be ranked by 1) calculating the percentage of total eligible points scored (100 for public agencies and 90 for non-public entities) in descending order, and 2) providing first priority for projects operating in six highly impacted communities. In the event that two or more projects achieve an equal score, the project with the best TFCA funding cost-effectiveness (Criterion 1) will receive a higher ranking.

Available TFCA Regional Funds will be allocated to projects beginning with the highest ranking project and proceeding in sequence to lower ranking projects, to fund as many eligible projects as available funds can fully cover. If the TFCA Regional Fund is oversubscribed, the point where the next-ranked eligible project cannot be fully funded defines the cut-off point for the funding cycle, i.e., all projects above this point will be funded. The Air District may maintain a list of eligible projects that may be funded if funds become available. If the Regional Fund is undersubscribed, any remaining funds are generally allocated to projects in the subsequent funding cycle. No partial grant awards will be made; however, grant awards may be reduced from the original application request by mutual consent of the project sponsor and the Air District; grant awards may be reduced from the amount requested in the original application.

FY 2008/2009/2010 TFCA Regional Fund Scoring Criteria

Criteria	Maximum Points
1. TFCA Funding Effectiveness*	60
2. Greenhouse Gas Emission Reductions*	10
3. Other Project Attributes*	5
4. Clean Air Policies and Programs**	10
5. Sensitive and PM Impacted	---
A. General	10
B. Highly-Impacted Communities	<i>TopHigh priority***</i>
6. Priority Development Areas*	5
Total	100

* Public agencies and non-public entities eligible to receive points.

** Only public agencies eligible to receive points.

***TopHigh priority is defined per Criterion 5 below.

DISCUSSION

Criterion 1: TFCA Funding Effectiveness (maximum 60 points)

This criterion is designed to measure Measures the cost-effectiveness of a project in reducing air pollutant emissions and to encourage projects that contribute funding from other, non-TFCA sources in excess of required matching funds. Generally, applications that include higher rates of matching funds will score better than those that request higher percentage of TFCA funding. TFCA funds budgeted for the project (TFCA Regional Funds and TFCA County Program Manager Funds combined) will be divided by the estimated lifetime emission reductions for the project. The estimated lifetime emission reductions isare the sum of reactive organic gases, oxides of nitrogen, and weighted particulate matter (PM)¹ that will be reduced over the life of the project. Air District staff will determine the estimated emission reductions and TFCA funding effectiveness for the project.

The point scales for awarding points for this criterion isare presented below.

Point Scale for Criterion 1

a. For projects that must achieve a C-E threshold of \$90,000/ton:

TFCA \$/Ton	Points	TFCA \$/Ton	Points
\$0 - \$19,999	60	\$56,000 - \$57,999	<u>4153</u>
\$20,000 - \$21,999	<u>5960</u>	\$58,000 - \$59,999	<u>4052.5</u>
\$22,000 - \$23,999	<u>5860</u>	\$60,000 - \$61,999	<u>3952</u>
\$24,000 - \$25,999	<u>5759.75</u>	\$62,000 - \$63,999	<u>3851.5</u>
\$26,000 - \$27,999	<u>5659.5</u>	\$64,000 - \$65,999	<u>3751</u>
\$28,000 - \$29,999	<u>5559.25</u>	\$66,000 - \$67,999	<u>3650.5</u>
\$30,000 - \$31,999	<u>5459</u>	\$68,000 - \$69,999	<u>3550</u>
\$32,000 - \$33,999	<u>5358.75</u>	\$70,000 - \$71,999	<u>3449.5</u>
\$34,000 - \$35,999	<u>5258.5</u>	\$72,000 - \$73,999	<u>3349</u>
\$36,000 - \$37,999	<u>5158</u>	\$74,000 - \$75,999	<u>3248.5</u>
\$38,000 - \$39,999	<u>5057.5</u>	\$76,000 - \$77,999	<u>3148</u>
\$40,000 - \$41,999	<u>4957</u>	\$78,000 - \$79,999	<u>3047.5</u>
\$42,000 - \$43,999	<u>4856.5</u>	\$80,000 - \$81,999	<u>2947</u>
\$44,000 - \$45,999	<u>4756</u>	\$82,000 - \$83,999	<u>2846.5</u>
\$46,000 - \$47,999	<u>4655.5</u>	\$84,000 - \$85,999	<u>2746</u>
\$48,000 - \$49,999	<u>4555</u>	\$86,000 - \$87,999	<u>2645.5</u>
\$50,000 - \$51,999	<u>4454.5</u>	\$88,000 - \$89,999	<u>2545</u>
\$52,000 - \$53,999	<u>4354</u>	\$90,000 - and above	0
\$54,000 - \$55,999	<u>4253.5</u>		

b. For Heavy-Duty Alternative Fuel/ Hybrid Service Vehicles (Low-mileage utility trucks in idling service):

50 Points – (amount requested must be equal to or less than the allowable amounts listed in Policy 22.)

¹ PM emissions include tailpipe PM, as well as brake particles, tire particles and re-entrained road dust. Consistent with California Air Resources Board methodology to calculate PM emission reductions for the Carl Moyer Program, weighted PM emissions will be calculated by adding the tailpipe PM multiplied by a factor of 20, plus the sum of tire, brake, and road dust PM.

c. For projects that must achieve a C-E threshold of \$125,000/ton (Pilot Shuttle/Feeder Bus Service):

\$0-	\$19,999	60	\$74,000-	\$76,999	53
\$20,000	-\$22,999	60	\$77,000-	\$79,999	52.5
\$23,000	-\$25,999	60	\$80,000 -	\$82,999	52
\$26,000	-\$28,999	59.75	\$83,000 -	\$85,999	51.5
\$29,000	-\$31,999	59.5	\$86,000 -	\$88,999	51
\$32,000	-\$34,999	59.25	\$89,000 -	\$91,999	50.5
\$35,000	-\$37,999	59	\$92,000 -	\$94,999	50
\$38,000	-\$40,999	58.75	\$95,000 -	\$97,999	49.5
\$41,000	-\$43,999	58.5	\$98,000 -	\$100,999	49
\$44,000	-\$46,999	58	\$101,000 -	\$103,999	48.5
\$47,000	-\$49,999	57.5	\$104,000 -	\$106,999	48
\$50,000	-\$52,999	57	\$107,000 -	\$109,999	47.5
\$53,000	-\$55,999	56.5	\$110,000 -	\$112,999	47
\$56,000	-\$58,999	56	\$113,000 -	\$115,999	46.5
\$59,000	-\$61,999	55.5	\$116,000 -	\$118,999	46
\$62,000	-\$64,999	55	\$119,000 -	\$121,999	45.5
\$65,000	-\$67,999	54.5	\$122,000 -	\$124,999	45
\$68,000	-\$70,999	54	\$125,000 -	and above	0
\$71,000	-\$73,999	53.5			

d. For projects that must achieve a C-E threshold of \$500,000/ton (Advanced Technology Demonstration Projects):

\$0 -	\$44,999	60	\$279,000 -	\$291,999	50
\$45,000	-\$57,999	59.5	\$292,000 -	\$304,999	49
\$58,000	-\$70,999	59	\$305,000 -	\$317,999	48
\$71,000	-\$83,999	58.5	\$318,000 -	\$330,999	47
\$84,000	-\$96,999	58	\$331,000 -	\$343,999	46
\$97,000	-\$109,999	57.5	\$344,000 -	\$356,999	45
\$110,000	-\$122,999	57	\$357,000 -	\$369,999	44
\$123,000	-\$135,999	56.5	\$370,000 -	\$382,999	43
\$136,000	-\$148,999	56	\$383,000 -	\$395,999	42
\$149,000	-\$161,999	55.5	\$396,000 -	\$408,999	41
\$162,000	-\$174,999	55	\$409,000 -	\$421,999	40
\$175,000	-\$187,999	54.5	\$422,000 -	\$434,999	39
\$188,000	-\$200,999	54	\$435,000 -	\$447,999	38
\$201,000	-\$213,999	53.5	\$448,000 -	\$460,999	37
\$214,000	-\$226,999	53	\$461,000 -	\$473,999	36
\$227,000	-\$239,999	52.5	\$474,000 -	\$486,999	35
\$240,000	-\$252,999	52	\$487,000 -	\$499,999	34
\$253,000	-\$265,999	51.5	\$500,000 -	and above	0
\$266,000	-\$278,999	51			

Criterion 2: Greenhouse Gas Emission Reductions (maximum 10 points)

This criterion is designed to reward Rewards projects that will reduce greenhouse gas emissions. It will award Awards a maximum of 10 points (on a sliding scale, 0 - to 10 points) for projects that reduce

emissions of greenhouse gases, predominately carbon dioxide. [Inherently Generally](#), projects that promote alternative modes of transportation and reduce single occupant vehicle trips (e.g., transit, ridesharing, bicycling and walking), as well as projects that improve motor vehicle fuel economy, will reduce greenhouse gas emissions. TFCRA funds budgeted for the project will be divided by the estimated lifetime emission reductions of greenhouse gases for the project. Air District staff will determine the estimated emission reductions, TFCRA funding effectiveness for greenhouse gases, and the scale for awarding points.

Criterion 3: Other Project Attributes (maximum 5 points)

[The purpose of this criterion is to provide](#)[Provides](#) a mechanism in the evaluation and scoring process to identify and assess desirable project attributes that are not captured in the analysis of TFCRA funding effectiveness. Projects may score points under this criterion based upon other project attributes identified for each project type. The specific project attributes for each project type will be identified after grant applications have been received and reviewed. [Examples of Other Project Attributes will be provided in TFCRA Guidance document.](#)

Criterion 4: Clean Air Policies and Programs (maximum 10 points)

[The purpose of this criterion is to recognize](#)[Recognizes](#) and [encourage](#)[encourages](#) the efforts of public agencies to implement policies and programs that promote the region's air quality objectives, especially land use and transportation policies that help to reduce air pollution from motor vehicles.

To receive points for this criterion, the sponsoring agency must describe its policies and actions to implement the transportation control measures (TCMs) in the most recently adopted strategy(ies) for State and national ozone standards throughout the agency's jurisdiction. Points will be awarded based upon the performance of the project sponsor in implementing those elements of each TCM, which are within the purview of the sponsor agency.

Non-public entities are not eligible for points under this criterion.

Criterion 5: Sensitive and Particulate Matter (PM) Impacted Communities (maximum 10 points)

Under Criterion 5, grant applications are eligible for credit under two sub-criteria.

A. General

[This sub-criterion will award a maximum of 10 points \(on a sliding scale, 0-10 points\) for projects that directly reduce emissions in communities with both high PM_{2.5} emissions and sensitive populations \(i.e., children, seniors, those with low-incomes or elevated asthma rates\).](#)

B. Highly Impacted Communities

[New for FY 2008/2009, applications that meet thresholds for emission reductions in six highly impacted communities will receive priority over those applications that do not.](#)

- [Top priority : Additional credit](#) will be given to projects in these communities by providing them with the maximum score of 10 points in this Criterion and an additional 5 points under Criterion 3 "Other Project Attributes" provided that they [operate at least 30% in highly impacted communities.](#) This contrasts with previous years where [meet](#) a sliding 10-point scale was used

similar to the general category above. The six minimum percentage of operations in highly impacted communities are:

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

These six communities have been identified by the Air District as having the most severe health risk with a population in which more than 40% of the residents are under 185% of the federal poverty level.and relatively low income levels.

Both sub-criteria 5A and 5B are based on data from the Air District's Community Air Risk Evaluation (CARE) Program; maps that identify these communities will be made available on the Air District's website. To qualify for points, a project must directly benefit one or more of these communities. The grant applicant must: 1) clearly indicate the community that would benefit from the project; 2) specify the percentage of project resources or services that would be delivered to the identified community; and 3) provide a clear explanation as to how the project would directly benefit residents in that community. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the community, and the extent to which the project sponsor demonstrates this benefit.

Criterion 6: Priority Development Areas (maximum 5 points)

The purpose of this criterion is Awards additional points to reduce emissions by encouraging the concentration of projects located in concentrated areas identified for future growth near transit and in existing Bay Area communities. Funding projects operating in regionally approved Priority Development Areas (PDAs) will lead to reduced emissions in the region generally, and in PDAs in particular. Both public agencies and non-public entities are eligible for points under this criterion.

As with Criterion 5, to receive points for this criterion, the project must directly benefit one or more approved PDA. The grant applicant must: 1) clearly indicate the PDA that would benefit from the project; 2) specify the percentage of project resources or services that would be delivered in the PDAs. The credit awarded will be determined by Air District staff, and will be based upon the percentage of project resources or services that would directly benefit the PDA, and the extent to which the project sponsor demonstrates this benefit.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
 Memorandum

To: Chairperson Haggerty and Members
 of the Mobile Source Committee

From: Jack P. Broadbent
 Executive Officer/APCO

Date: March 18, 2009

Re: Update on the Carl Moyer Voucher Incentive Program

RECOMMENDED ACTION

Staff requests that the Committee recommend the Board of Directors reserve up to \$2 million in Mobile Source Incentive Funds (MSIF) to match \$2 million in California Air Resources Board (CARB) funds to establish a Carl Moyer Voucher Incentive Program (VIP).

BACKGROUND

The Bay Area Air Quality Management District (Air District) has participated in the Carl Moyer Program (CMP), in cooperation with the CARB, since the program began in fiscal year (FY) 1998/1999. The CMP provides grants to public and private entities to reduce emissions of oxides of nitrogen (NOx), reactive organic gases (ROG) and particulate matter (PM) from existing heavy-duty engines by either replacing or retrofitting them.

In an effort to streamline the CMP, CARB has developed an on-road truck replacement VIP that would make participation easier for vehicle owners and program administration easier on the Air District. On February 4, 2009, the District’s Board of Directors authorized the APCO/ Executive Officer to enter into agreements with vehicle scrappers and dealers to implement a VIP in accordance with the guidelines developed by CARB.

DISCUSSION

CARB is responsible for developing guidelines that air districts must follow in order to administer the VIP. CARB has taken the current criteria of the CMP Fleet Modernization program and streamlined the requirements for both participants and air districts. By streamlining the guideline requirements, the VIP will provide funding opportunities for small fleet (1 - 3 vehicles) owners that will allow them to replace their older heavy-duty diesel vehicles more quickly with cleaner vehicles. Small fleet owners that meet the minimum qualifications for participation summarized below may be eligible for funding as shown in Table 1 on a first-come, first-served basis. Once a vehicle is replaced the owner will be required to scrap the original vehicle.

Table 1: VIP Funding Amounts

Model Year of Existing Vehicle	New Vehicle in Operation by December 31 of:	Voucher Amount
1990 & older	2009	\$35,000
1991-1993		\$30,000
1990 & older	2010	\$25,000
1991-1993		\$20,000

Minimum Participation Criteria for Vehicle Owners:

- Only small fleets (1-3 diesel vehicles) can participate
- Existing vehicles must be 1993 or older
- Gross Combined Vehicle Weight Range greater than 60,000 lbs
- At least 75% operation within California, with at least 30,000 miles traveled per year, over the previous 2 years
- The replacement vehicle must have a 2007 or newer engine that is at or below 1.20 g/bhp-hr NOx and 0.01 g/bhp-hr PM
- Port trucks are not eligible for VIP funding

The Air District plans to apply to CARB for up to two million dollars in CMP Year 11 multi-district funding to start up the VIP and will be required to provide a match equal to the amount of funds awarded by CARB. This match will be met with funds from the Mobile Source Incentive Fund (MSIF) or from CMP Year 11 funds.

The Air District will have to enter into agreements with truck vendors and dismantlers to administer the VIP in accordance with the CARB guidelines. Unlike the CMP, the Air District may not set more stringent VIP requirements based upon local priorities. Not allowing the Air District to set more stringent standards means vehicle owners located outside the Air District's jurisdiction can submit applications for funding that the Air District cannot reject solely because of their location. However, as multiple other air districts are expected to enter the program, staff expects that the bulk of funding will be spent on vehicles within Air District boundaries.

BUDGET CONSIDERATION / FINANCIAL IMPACT

The CMP distributes "pass-through" funds from CARB to private companies and public agencies on an invoice basis. Staff costs for the administration of the CMP is included under Program 607 – Mobile Source Grants, in the current FY 2008/2009 budget and will be included in the upcoming FY 2009/2010 budget.

The Air District will be obligated to match the CMP multi-district funds in the amount up to the amount of funds awarded by CARB. The District will meet this requirement through the expenditure of motor vehicle surcharge revenues or CMP funds to eligible projects. As such, the local match requirement will have no impact on the Air District's budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Anthony Fournier
Reviewed by: Jack M. Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 24, 2009

Re: Report of the Budget & Finance Committee Meeting of March 30, 2009

RECOMMENDED ACTION

The Committee may recommend Board of Directors' approval of the following:

1. Amend the FY 2008/2009 Budget by increasing the Section 103 Environmental Protection Agency (EPA) Grant Revenue by \$113,908, correspondingly increase the capital equipment budget for the Laboratory (Program 803), and authorize the Executive Officer to issue a purchase order for the instrumentation required by the grant.

BACKGROUND

The Budget & Finance Committee will meet on Monday, March 30, 2009. The Committee will receive and consider the following reports and recommendations:

- A) Update on Proposed Fee Amendments to Regulation 3: Fees;
- B) Discussion of Proposed Budget for Fiscal Year 2009/2010;
- C) Consider recommending that the Board of Directors Amend FY 2008/2009 Operating Budget to recognize increased revenue under an Environmental Protection Agency Grant and to Authorize the Executive Officer to Issue a Purchase Order for Instrumentation required by the Grant;
- D) Update on the Air District's Response to Recommendations from Air District Annual Audit: Schedule for Adoption of Administrative Policies.

Attached are the staff reports presented in the Budget and Finance Committee packet.

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

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) With the proposed change to Schedule G-5, and the other proposed fee amendments, it is estimated that the annual permit renewal fees would increase by 9 percent from the current fiscal year.

- B) The proposed consolidated budget for FY 2007/2008 is \$75,485,012 and is a balanced budget without drawing from undesignated reserves.
- C) This Budget Amendment is funded by an increase in the EPA Section 103 Grant. The purchase of the laboratory instrumentation will have no financial impact on the Air District's general revenue resources.
- D) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 23, 2009

Re: Update on Proposed Amendments to Regulation 3: Fees

RECOMMENDED ACTION:

None. This item is for information only.

UPDATE ON PROPOSED FEE AMENDMENTS FOR FYE 2010:

The Budget and Finance Committee was provided with a detailed description of staff's proposed amendments to the Air District's fee regulation for the upcoming fiscal year at the committee's meeting on February 25, 2009. A summary of the public workshop held on the proposed amendments was also provided. Staff requested that written comments on the proposal be submitted by March 6, 2009. At the committee's meeting on March 30, 2009, staff will provide a summary of the written public comments received.

Staff has also modified the initial proposal to amend Air District Regulation 3: Fees, to include a 50 percent increase for Fee Schedule G-5: Miscellaneous Sources. Schedule G-5 covers refinery flares that are subject to Air District Rule 12-11: Flare Monitoring at Petroleum Refineries, and Rule 12-12: Flares at Petroleum Refineries.

Air District staff resources associated with refinery flares have increased sharply in recent years due to the adoption of Rules 12-11 and 12-12. Staff began specifically tracking activity data for Schedule G-5 on July 1, 2007, after that schedule was adopted. For the annual period July 1, 2007 to June 30, 2008, the Air District's direct costs associated with refinery flares were \$867,500. It is expected that these costs will decrease by about 30 percent over the next several years as the FMP update process matures.

Permit fee revenue collected under Schedule G-5 for the last fiscal year was \$305,000. Increasing the fees for refinery flares by 50 percent would increase permit fee revenue for these sources to about \$442,000. This would more fully recover the District's ongoing costs associated with implementation and enforcement of Rules 12-11 and 12-12. The annual permit renewal fee for each flare would be \$18,635.

With the proposed change to Schedule G-5, and the other proposed fee amendments, it is estimated that the annual permit renewal fees for the five Bay Area refineries would increase by 9.4 percent from the current fiscal year, with the largest increase for an individual facility being 11 percent.

Staff will also present the committee with an option that would minimize fee increases for small sources, to address concerns related to the economy.

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 Daly and Members
of the Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 17, 2009

Re: Discussion of Proposed Budget for Fiscal Year 2009/2010

RECOMMENDED ACTION:

The Executive Officer/APCO requests that the Budget and Finance Committee review the Budget for FY 2009/2010 and make any recommendations for further discussions to be held during the April 29, 2009 Budget and Finance Committee meeting. This will allow staff the necessary time to make the changes for the second review by the Committee and the first public hearing date set for May 20, 2009.

BACKGROUND:

At the March 18, 2009 regular Board of Directors' meeting, the Fiscal Year 2009/2010 Proposed Budget document was formally referred to the Budget and Finance Committee for review at the Committee's March 30, 2009 meeting. Additional copies will be available at the Committee meeting.

DISCUSSION:

Staff will present the proposed budget for Fiscal Year 2009/2010. The proposed budget is balanced. General Fund Revenues, Transfers-In from Designated Reserves for PERS Funding, along with TFCA Indirect Cost Recovery and TFCA Revenues and Mobile Source Incentive Indirect Cost Recovery and Revenues are \$75.5 million. Proposed consolidated expenditures are \$75.5 million. Proposed capital requests are \$2.4 million. The proposed budget does not include an FTE increase.

Staff will publish, prior to April 20, 2009, a notice to the general public that the first of two public hearings on the budget will be conducted on May 20, 2009 and that the second hearing will be conducted on June 3, 2009. Staff requests that the Budget and Finance Committee complete its review and take action on the proposed budget at the April 29, 2009 Budget and Finance Committee meeting. This will allow staff the necessary time required to amend, if necessary, the budget for the first public hearing to be held on May 20, 2009.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The proposed consolidated budget for FY 2007/2008 is \$75,485,012 and is a balanced budget without drawing from undesignated reserves.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 23, 2009

Re: Consider Recommending that the Board of Directors Amend FY 2008/2009 Operating Budget to Recognize Increased Revenue under an Environmental Protection Agency Grant and Authorize the Executive Officer to Issue a Purchase Order for Instrumentation Required by the Grant

RECOMMENDED ACTION:

Recommend that the Board of Directors amend the FY 2008/2009 Budget by increasing the Section 103 Environmental Protection Agency (EPA) Grant Revenue by \$113,908, correspondingly increase the capital equipment budget for the Laboratory (Program 803), and authorize the Executive Officer to issue a purchase order for the instrumentation required by the grant.

SUMMARY:

In accordance with the Air District's Administrative Code, Division II, Fiscal Policies and Procedures, Section 4.3, staff requests that the Committee recommend that the Board amend the FY 2008/2009 budget by increasing the Laboratory Section's budget by a total of \$113,908. The funding source is an increase in the EPA Section 103 Grant. Staff also requests that the Committee recommend that the Board authorize the Executive Officer to issue a purchase order for the instrumentation required by the grant.

DISCUSSION:

The EPA funds the National Air Toxics Trend Site (NATTS) monitoring at the San Jose Jackson Street air monitoring station through a Section 103 grant that requires the Air District laboratory to analyze ambient air samples for specific toxic air contaminants (TAC). The award was increased this federal fiscal year to purchase a Gas Chromatograph/ Mass Spectrometer (GC/MS) to improve laboratory analytical capabilities to detect TAC at lower levels in ambient air.

The new equipment will also improve laboratory analytical capabilities for the entire toxics monitoring network, currently consisting of nineteen sites.

In addition, by purchasing the instrument from Agilent Technologies, the lab will incorporate a sulfur detection system into the GC/MS and eliminate the need of purchasing a second gas chromatograph, resulting in a savings of \$40,000. Agilent is the only manufacturer capable of offering this technology.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

This Budget Amendment is funded by an increase in the EPA Section 103 Grant. The purchase of the laboratory instrumentation will have no financial impact on the Air District's general revenue resources.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jim Hesson

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 23, 2009

Re: Response to Recommendations from Air District Annual Audit: Schedule for
Adoption of Administrative Policies

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION

At the February 25, 2009 meeting, the Budget and Finance Committee requested a timeline for forthcoming Air District policies addressed in the FY 2007-2008 Financial Audit by Maze and Associates. Below is a list of the relevant policies under development and the dates these policies are expected to be presented for Board of Directors consideration.

POLICY	EXPECTED DATE FOR BOARD CONSIDERATION
Investment Policy	May 2009
Capital Assets and Depreciation Policy	July 2009
Records Retention Policy	September 2009
Travel Policy (for possible modification to Administrative Code)	October 2009
Fraud Policy	December 2009

In general, policies which may affect employee working conditions are subject to discussion with the Employees Association. Discussion with the Employees Association may modify the proposed timeline of these policies.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Ana Sandoval
Reviewed by: Jeffrey M. McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer / APCO

Date: March 25, 2009

Re: Overview of 2008/2009 PM Season

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

Staff will present a report on the winter 2008/2009 PM Season. Unfavorable, drought-like conditions during most of the 2008/2009 season, unlike the 2007/2008 season, resulted in an increased number of days that national standard was exceeded. Based on continuous monitoring, the national PM_{2.5} standard was exceeded on 11 days during this season, compared to 7 days during the 2007/2008 season. The summary includes the number of days the national PM_{2.5} standard was exceeded and peak levels by location, trends in seasonal rainfall .vs. the number days the standard was exceeded, attainment status and timelines.

The Board of Directors adopted a Wood Burning Rule on July 9, 2008. From November 1st through the end of February, wood burning is prohibited on days when the Air District predicts that the national PM_{2.5} standard will be exceeded. The winter 2008/2009 PM season was the first time the Air District's Wood Burning Rule was in effect. During this season, 11 winter Spare the Air Alerts were called, when the national PM_{2.5} standard was predicted to be exceeded. The wintertime Spare the Air Alert campaign ended on February 28, 2009. Air District staff are analyzing the effects of the Wood Burning Rule on PM_{2.5} levels and the number of days the national PM_{2.5} standard was exceeded. Staff will report on the results of the analyses at the April 20, 2009 Stationary Source Committee Meeting.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer / APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Pamela Torliatt and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 25, 2009

Re: Port of Oakland Maritime Air Quality Improvement Plan (MAQIP)

RECOMMENDED ACTION:

Consider whether to revisit the Air District position regarding the Port of Oakland's Maritime Air Quality Improvement Plan (MAQIP).

BACKGROUND

The Port of Oakland has completed a Maritime Air Quality Improvement Plan (MAQIP) that is intended to be the Port's master plan for air quality goals and policies for seaport operations. The Port established a 35-member Task Force to assist the Port in developing the MAQIP. The MAQIP Task Force began meeting in 2006 and had four co-chairs including representatives of the Port of Oakland, Port-related industry, the West Oakland community, and the Bay Area Air District. The Task Force included representatives of key community groups, government agencies, and port-related businesses.

The MAQIP was released in October 2008. The document includes a Port Board-adopted goal of reducing health risks in West Oakland from diesel particulate emissions from Port operations by 85% by 2020. It also includes documentation about seaport operations and emissions, results of the West Oakland health risk assessment, potential emission reduction strategies, and implementation and monitoring steps. The MAQIP was scheduled for consideration at the Port's Maritime Committee on November 20, 2008 and approval by the Port Board on December 2, 2008. The Port Maritime Committee postponed consideration of the MAQIP due to the need to re-evaluate the Port's financial commitments in the MAQIP, including the commitment of \$5 million to the District's drayage truck retrofit program. The Port also postponed consideration of a user fee that would fund air emission reduction measures.

The Port has since released a revised MAQIP in February 2009 and in April 2009, as well as a Supplement. Revisions to the document include deletion of the Port's financial contribution to the drayage truck retrofit program and deletion of future funding of truck clean up through the user fee, although the Port may consider reversing those decisions at their upcoming Port Board of Commissioners meeting.

The revised MAQIP and Supplement include some but not all near-term implementation steps recommended to the Port by the Interagency Group, which includes Air District staff. The Ad Hoc Committee on Port Emissions discussed the MAQIP and the Supplement at the Ad Hoc Committee meeting on March 12, 2009. The Committee approved a recommendation that the Board of Directors oppose the MAQIP unless the MAQIP includes additional near term implementation steps for reducing air pollutant emissions and improving public health. The Committee directed staff to prepare a resolution specifying the additional implementation steps for consideration by the Board of Directors at the March 18, 2009 Board meeting.

The Board of Directors adopted Resolution 2009-03 at the March 18, 2009 Board meeting. The Resolution was sent to the Port Board of Commissioners on March 18, 2009. A copy of the resolution is attached.

DISCUSSION

The MAQIP including the Supplement was considered by the Port of Oakland Maritime Committee on March 19, 2009. Jean Roggenkamp, Deputy Air Pollution Control Officer, provided testimony at the Maritime Committee meeting, conveying the Air District's position on the MAQIP.

The Port Maritime Committee decided to forward the MAQIP and the Supplement to the full Port Board of Commissioners without a recommendation. The Maritime Committee also directed Port staff to forward the Air District's resolution along with a letter from the Pacific Maritime Shipping Association to the Port Board of Commissioners for their consideration along with the MAQIP. The next Port Board of Commissioners meeting is scheduled for April 7, 2009.

The Chair of the Maritime Committee also directed Port staff to meet with Air District staff to discuss whether the MAQIP and Supplement can be revised to garner the Air District's support. Staff from the Port and the Air District will be meeting on March 30, 2009. At the April 1, 2009 Board of Directors meeting, staff will report on the meeting and any tentative agreements reached.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2009- 03

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Urging the Board of Port Commissioners for the City of Oakland to incorporate specific actions in the proposed Maritime Air Quality Improvement Program

WHEREAS, the Board of Port Commissioners for the City of Oakland has adopted a laudable and important policy to reduce health risks attributable to port operations by 85% by 2020;

WHEREAS, in 2006, the Port of Oakland established a Task Force to develop a Maritime Air Quality Improvement Plan (MAQIP);

WHEREAS, the Executive Officer of the Bay Area Air Quality Management District (BAAQMD) served as a co-chair of the Task Force;

WHEREAS, the Task Force met eight (8) times over a two-year period;

WHEREAS, the Task Force represented a well-rounded forum for multiple perspectives and advice to the Port of Oakland staff on the necessary elements for a successful comprehensive air quality plan;

WHEREAS, at the request of the Task Force, participating government agencies formed an Interagency Working Group to coordinate the implementation of the air quality improvement strategies identified in the MAQIP;

WHEREAS, the proposed final MAQIP which will be reviewed and considered for adoption by the Board of Port Commissioners for the City of Oakland at public meetings in March and April 2009 lacks specifics on the implementation of several key air quality improvements that will contribute to the Port's 2020 health risk reduction goals;

WHEREAS, the Executive Officer of the BAAQMD and his designees have conveyed in direct meetings, public forums and written comments concerns regarding the lack of key implementations steps for control measures;

WHEREAS, the Ad Hoc Committee on Port Emissions of the BAAQMD discussed the status of the proposed final MAQIP at its meeting on March 12, 2009;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby oppose the adoption of the proposed final MAQIP unless amended to include the following, as proposed by the Interagency Working Group:

- The adoption of a container use fee of no less than \$12.50 per loaded twenty-foot equivalent unit (TEU);

- A policy to expend the first three years of revenues from the container use fee on air quality improvement efforts at the Port of Oakland that will reduce health risk in the western Oakland area;
- A policy to expend the first two years of revenue exclusively on assisting trucking firms and individual truck owners doing business at the Port of Oakland in purchasing used and new trucks that are compliant with the California Air Resources Board emission standards for 2007 and newer model year engines, as set forth in Section 1956.8, Title 13, California Code of Regulations;
- A policy to expend the third and subsequent years of revenue from the use fee on clean trucks and infrastructure for shore power systems for marine vessels docking at the marine terminals;
- The adoption by January 1, 2010 of an incentive program for the use of marine diesel oil with a sulfur content less than 0.5% by weight in ocean-going vessels transiting to or from, or berthing at, the Port of Oakland between January 1, 2010 and December 31, 2011;
- The adoption of a Port policy to continue the low-sulfur marine diesel oil incentive program beyond December 31, 2011 if the California Air Resources Board's regulation on marine fuels, as set forth in Section 2299.2, Title 13, California Code of Regulations, is rendered inactive;

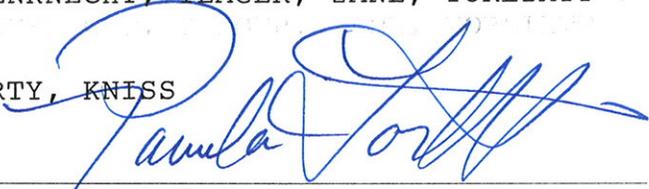
BE IT FURTHER RESOLVED that the Board of Directors of the Bay Area Air Quality Management District does hereby encourage the inclusion in the final MAQIP the following additional measures:

- The implementation by September 1, 2009 of a procedure to refuse entrance to Port properties of trucks that are not registered in the statewide drayage truck registry established and maintained by the California Air Resources Board;
- The implementation by January 1, 2010 of a procedure to refuse entrance to Port properties of trucks that are not in compliance with the California Air Resources Board's Air Toxic Control Measure for drayage trucks as set forth in Section 2027, Title 13, California Code of Regulations;
- The adoption of a Port policy to include in all new or renegotiated leases conditions requiring the use of low-sulfur marine diesel oil in all vessels transiting to and from, and berthing at terminals in the Port of Oakland.
- The adoption of a Port policy to include in all new or renegotiated leases conditions requiring the use of shore-power connections in all vessels berthing at terminals in the Port of Oakland.
- The commitment to publish updated emission inventories from sources operating at the Port of Oakland on a biennial schedule beginning with calendar year 2008.

BE IT FURTHER RESOLVED, that the Board of Directors of the Bay Area Air Quality Management District does hereby authorize the Executive Officer of the BAAQMD or his designee to undertake such other efforts as are appropriate to convey the District position on this issue.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director MILEY, seconded by Director GIOIA, on the 18th day of MARCH, 2009 by the following vote of the Board:

AYES: BATES, DALY, DUNNIGAN, GARNER, GIOIA, GROOM, HOSTERMAN,
KISHIMOTO, KLATT, MAR, MILEY, ROSS, SHIMANSKY, SPERING,
NOES: UILKEMA, WAGENKNECHT, YEAGER, ZANE, TORLIATT
NONE.
ABSENT: BROWN, HAGGERTY, KNISS



Mayor Pamela Torliatt
Chairperson of the Board of Directors

ATTEST:



Mayor Tom Bates
Secretary of the Board of Directors