



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

May 6, 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
MAY 6, 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 – 5)

Staff/Phone (415) 749-

1. Minutes of April 15, 2009

L. Harper/5073

lharp@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. Consider Establishing New Job Classifications of Health Officer with a Salary Set at Pay Range 148M and Manager, Executive Operations with a Salary Set at Pay Range 148M

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider establishing new job classifications and salary ranges of a Health Officer, and Manager, Executive Operations, effective upon Board of Directors approval.

5. Consideration and Approval of a Contractor to Replace the Air District's Meteorological Model

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Board of Directors will consider approval of a contract with Penn State University in an amount not to exceed \$100,000 to assist with upgrading and evaluating the meteorological model.

COMMITTEE REPORTS AND RECOMMENDATION(S)

6. Report of the **Legislative Committee Meeting** of April 15, 2009

CHAIR: T. BATES

J. Broadbent/5052

jbroadbent@baaqmd.gov

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

- A) *Pursuit of Option B: Under this option, the populations at which counties add additional representatives would be changed. A second representative would be added at 350,000 (rather than 300,000). A third representative would be added at 800,000 (rather than 750,000). A fourth representative would be added at 1,200,000 (rather than 1,000,000). However, existing representatives from counties that have already exceeded the current population triggers would not be removed, but counties would not add representatives until the new triggers are reached. This would keep the Board at its current size of 22 members for perhaps another decade; and*
- B) *Newly introduced bill positions as listed in your packet.*

7. Report of the **Climate Committee Meeting** of April 17, 2009

CHAIR: Y. KISHIMOTO

J. Broadbent/5052

jbroadbent@baaqmd.gov

8. Report of the **Stationary Source Committee Meeting** of April 20, 2009

CHAIR: J. GIOIA

J. Broadbent/5052

jbroadbent@baaqmd.gov

9. Report of the **Budget and Finance Committee Meetings** of April 29, 2009 and May 6, 2009

CHAIR: C. DALY

J. Broadbent/5052

jbroadbent@baaqmd.gov

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

- A) *Adopt Proposed FYE 2010 Budget upon completion of public hearings with the exception at this time, of Appendix C – Fund Balances;*
- B) *Authorize the Executive Officer/APCO to solicit bids and execute necessary agreements for Budget System Standardization in an amount not to exceed \$175,000;*
- C) *Authorize the Executive Officer/APCO to solicit bids and execute necessary agreements for DataCenter improvement funding in an amount not to exceed \$525,000 and Computer Network improvement funding in an amount not to exceed \$225,000; and*
- D) *Assign Capital Facilities oversight responsibilities to the Budget & Finance Committee*

The Committee will meet on May 6, 2009, prior to the Board of Directors' meeting and may recommend Board of Directors' approval of a Revised Appendix C – Fund Balances and approval of the Proposed FYE 2010 Budget upon completion of public hearings.

10. Report of the **Mobile Source Committee Meeting** of April 30, 2009

CHAIR: S. HAGGERTY

J. Broadbent/5052

jbroadbent@baaqmd.gov

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

- A) *Proposed FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment B;*
- B) *Up to \$5 Million for alternative-fuel vehicle and infrastructure projects (Policies # 21-25) to be reserved to match the Air District's application to the Department of Energy (DOE) under Clean Cities FY09 Petroleum Reduction Technologies Projects for the Transportation Sector, Area Interest #4.;*
- C) *Three revised FY 2008/2009 Transportation Fund for Clean Air Regional Fund projects listed below in Table 1.*
- D) *Funding allocations for FY 2009/2010 TFCA County Program Manager listed on Table 1;*
- E) *Amended allocation of \$153,586 to the FY 2008/2009 Napa County TFCA Program Manager expenditure plan;*
- F) *Amend FY 2009/2010 TFCA Program Manger Policies to allow County Program Managers the option to use Board approved Policies # 21-25 from the TFCA Regional Fund Policies and Evaluation Criteria for 2009/2010; and*
- G) *Authorize the Executive Officer/APC to enter into funding agreements with the County Program Managers for FY 2009/2010 allocations and to amend the Napa County Program Manger's FY 2008/2009 Expenditure Plan, consistent with Board-adopted TFCA Program Manager Policies.*

PRESENTATION

11. Overview of "The American Clean Energy and Security Act of 2009" **J. Roggenkamp/4646**

jroggenkamp@baaqmd.gov

Staff will provide the Board of Directors with an overview of Waxman-Markey's discussion draft, "The American Clean Energy and Security Act of 2009."

CLOSED SESSION

12. **Conference with Legal Counsel – Existing Litigation**

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

Healthy Air Coalition v. Bay Area AQMD, San Francisco Superior Court, Case No. CGC-09-486990

OTHER BUSINESS

13. Report of the Executive Officer/APCO
14. Chairperson's Report
15. Board Members' Comments

Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

16. Time and Place of Next Meeting – 9:45 a.m., Wednesday, May 20, 2009 - 939 Ellis Street, San Francisco, CA 94109
17. 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

MAY 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>(Meets 4th Wednesday of Each Month)</i>	Wednesday	6	9:15 a.m.	Room 716
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) - CANCELLED</i>	Thursday	14	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month) – TO BE RESCHEDULE</i>	Thursday	14	9:30 a.m.	4th Floor Conf. Room
Joint Policy Committee	Friday	15	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Executive Committee <i>(At the Call of the Chair)</i>	Monday	18	9:30 a.m.	4 th Floor Conf. Room
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 Personnel Committee – <i>(At the Call of the Chair)</i>	Wednesday	27	9:30 a.m.	4 th Floor Conf. 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

JUNE 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	3	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday every other Month)</i>	Thursday	4	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday of each Month)</i>	Thursday	11	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	11	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	17	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee – <i>(Meets 4th Thursday of each Month)</i>	Thursday	25	9:30 a.m.	4 th Floor Conf. Room
HL – 4/29/09 (4:20 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: April 23, 2009

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Regular Board of Directors' meeting of April 15, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the Regular Board of Directors' meeting of April 15, 2009.

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
April 15, 2009

DRAFT MINUTES

CALL TO ORDER: Chairperson Pamela Torliatt called the meeting to order at 9:58 a.m.

Roll Call: Chairperson Pamela Torliatt, Vice Chairperson Brad Wagenknecht, Secretary Tom Bates and Directors Harold Brown, Chris Daly, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Carol Klatt, Liz Kniss, Eric Mar, Nate Miley, Mark Ross, Michael Shimansky, Gayle Uilkema

Absent: Directors Dan Dunnigan, Susan Garner, Yoriko Kishimoto, James Spring, Ken Yeager and Shirlee Zane

Pledge of Allegiance: Chairperson Torliatt led the Pledge of Allegiance.

Chairperson Torliatt requested that items be taken out of order due to a lack of a quorum at the beginning of the meeting.

OTHER BUSINESS:

Report of Executive Officer/APCO: Mr. Broadbent reported that the Port of Oakland Board of Commissioners met last week and considered and adopted the Maritime Air Quality Improvement Plan (MAQIP) on a vote of 5-1 (Gordon voting no). He said the plan does not contain any commitments; it does not call for specific strategies and relies heavily on enforcement by the Air District, the State, EPA and others. He, along with representatives from the EPA and County Health Department testified and urged the Port Commissioners to defer adoption of the plan and to add specific commitments.

Mr. Broadbent then reported that the \$5 million originally committed for retrofit of trucks was considered and approved by the Port Board of Commissioners, and staff will be scheduling a Closed Session to discuss next steps.

Chairperson's Report: Chairperson Torliatt reminded Board Members of the A&WMA Conference to be held June 16-19, 2009 in Detroit, Michigan, as well as the May 4, 2009 Climate Summit, to be held at the Fox Theater in Oakland.

Public Hearing to Consider Testimony on Proposed Amendments to Air District Regulation 3: Fees – Staff Presentation by Director of Engineering, Brian Bateman

Overview:

Mr. Bateman provided a background of proposed amendments, discussed the Air District's authority to assess fees to fully recover reasonable costs of implementing and enforcing regulatory programs, said cost recovery analyses indicates that fee revenue falls well short of program costs and the gap is filled annually by property tax revenue. Based upon a three-year outlook, staff is assuming no increase in discretionary expenses, capital and FTE's and is retaining vacancies. Assumptions are based upon a 10% reduction in property taxes, a 12% increase in CalPERS, an 11% increase in salary and benefits and other take-a-ways. He briefly discussed revenue sources, the estimated imbalance in FY 2012 by 13%, and fee revenue needed to balance the budget in FY 2012 and noted that, on average, SCAQMD permit fees for small businesses are 40% higher than BAAQMD fees.

Summary of Proposed Fee Amendments:

- Increase overall fee revenue by 9.3% from revenue projected for the current fiscal year
 - Increase in CPI for Bay Area was 3.3%
 - Additional \$2.6 million in revenue
- Target fee schedules with the most significant cost recovery gaps for the largest fee increases
 - Most fee schedules would increase by 3, 6, 9, 12 or 15%
 - 50% increase for refinery flares
 - No increase for several fee schedules
- 6% increase in administrative fees
- New Fee Schedule for Indirect Source Review (ISR)
- Hearing Board Court Reporter Fee
- Back fee provision for equipment registrations

Impacts on small businesses:

- Annual permit renewal fees for most small businesses would increase by \$15-\$80;
- Annual permit renewal fees for most gas stations would increase by \$100 to \$300;

Mr. Bateman summarized examples of permit renewal fee increases. Public comments received to date ask that the District consider the cost of EVR compliance, poor economic conditions, and to use reserve accounts/cut staff salaries. Comments were also received in support of the proposed ISR rule and fees.

Remaining Rule Development Schedule:

- Initial draft fee regulation amendments issued on January 29, 2009;
- Public workshop held February 23, 2009;
- Revised proposals issued March 18 and 24, 2009;
- Budget and Finance Committee briefings held February 25 and March 30, 2009;
- Public hearings on April 15 and May 20, 2009;
- Amendments effective July 1, 2009.

Board Comments/Discussion:

Director Daly reported that the Budget and Finance Committee met, discussed the District's budget and proposed fee increases, and considered the economic climate and small business impacts. The Committee voted to move forward with staff's recommendation and supported cost recovery, recognizing that the District's fee revenues fall well short of program costs.

The public hearing was opened.

Public Comments: Dennis Bolt, WSPA, opposed the proposed fee increases and suggested the District look at further efficiencies in its operations.

Irwin Dawid, Sierra Club, supported staff recommendations and the Air District's use of the ISR.

Board Action: None needed; a public hearing has been set for May 20, 2009 to consider adoption of the proposed fee amendments and approval of filing of a Notice of Exemption from the California Environmental Quality Act.

CONSENT CALENDAR (Items 1-6):

Chairperson Torliatt announced that Item 5 was requested for removal from the Consent Calendar by a member of the public.

1. Approval of Minutes of Aril 1, 2009;
2. Communications;
3. Quarterly Report of Air Resources Board Representative-Honorable Ken Yeager
4. Quarterly Report of the Executive Office Activities
6. Set Public Hearings for May 20, 2009 to Consider Testimony and June 3, 2009 to Consider Adoption of the Air District's Proposed Budget for FYE 2010

Board Action: Director Wagenknecht moved to approve Consent Calendar Items 1, 2, 3, 4, and 6; seconded by Director Kniss; carried unanimously without opposition.

5. Set Final Public Hearing for May 20, 209 to Consider Adoption of Proposed Fee Amendments to District Regulation 3: Fees, and Consider Approval of a Notice of Exemption from CEQA

Public Comments: Camille Kustin, Environmental Defense Fund (EDF), reported on EDF's continued work on ISR fees with the San Joaquin Valley and on rule development in the South Coast and Sacramento region. She noted that courts have upheld air districts' authority to require ISR fees and she looks forward to working with the Air District on the Rule.

Board Action: Director Bates moved to approve Consent Calendar Item 5; seconded by Director Wagenknecht; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

Report 7. Public Outreach Committee Meeting

April 2, 2009

Report given by Chairperson M. Ross

September 26, 2008 (as amended) and October 31, 2009 Committee minutes approved.

Discussion/Actions:

The Committee received an update on the Wintertime Spare the Air Alert Outreach Campaign and discussed with staff the kick-off media blitz, including special "news outlets" appearances, TV broadcast spots, shopping ad carts, telephone and email alerts and widgets, front page newspaper flags, incentives, campaign coverage areas, movie theater ads and metro radio station spots, which resulted in a total of 1156 bonus spots or a 200% increase from the original 350 spots purchased by the Air District. A commercial by Executive Officer/APCO Jack Broadbent, *Check Before You Burn*, was also shown.

The Committee received samples of campaign advertising, survey results, and successes of the campaign, which included the following statistics:

- AirAlert sign-ups had doubled to 100,000,
- 12,000 residents signed up for phone alerts,
- 877-4-NO BURN number received 500,000 calls,
- Results of the survey show 77% supported the wood burning rule,
- An increased number of households (24%) indicated they did not burn or reduced their wood burning; and
- 1,000 gas fireplace rebates were awarded.

The Committee then discussed and considered recommending Board of Director's approval of staff recommendations on contractors for Advertising and Media Services for Summer and Winter Spare the Air campaigns, Smoking Vehicles Campaign, and Grants and Incentives advertising. A total of 12 proposals were received upon conclusion of the RFP process, and after review and evaluation of criteria, three contractors were interviewed for advertising services and three contractors for media/public relations services.

The original staff recommendation was revised to recognize the need to maintain continuity in the Employer Program and to recognize the strong relationship that Allison & Partners has with existing employees and employers. Therefore, the Committee recommends Board of Directors' approval of staff recommendations on Public Outreach Contracts, to award:

- Advertising Services for Spare the Air–O'Rourke Inc. - Not to exceed \$1,200,000;
- Advertising Services for Smoking Vehicles and Grants–RHDG - Not to exceed \$475,000;
- Media/Public Relations Services for Spare the Air–MS&L Public Relations - Not to exceed \$500,000;
- Media/Public Relations Services for Employer Program–Allison & Partners, (as amended) - Not to exceed \$150,000.

The next meeting of the Public Outreach Committee is scheduled for May 7, 2009 at 9:30 a.m.

Board Action: Director Ross moved that the Board of Directors approve the report and recommendations of the Public Outreach Committee; seconded by Director Kniss; unanimously approved without objection.

Chairperson Torliatt referred to the presentation given to Committee members at the April 2nd meeting, and complimented Ms. Fasano and staff on their outstanding public outreach efforts.

Public Hearing to consider Adoption of Proposed Amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles and Regulation 8, Rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles, and Adoption of a CEQA Negative Declaration – *Staff Presentation by Air Quality Engineer, Guy Gimlen*

Guy Gimlen, Senior Air Quality Engineer, presented the staff report regarding amendments proposed to Regulation 8, Rules 33 and 39 which implement the District's 2005 Ozone Strategy Control Measure SS-7. A public hearing was held on February 4, 2009, but continued after guidance was received from the Air Resources Board who met on March 11th and posted proposed amendments. The recommended action by the Board of Directors is to:

- Adopt proposed amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles;
- Adopt proposed amendments to Regulation 8, Rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles; and
- Adopt a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) for this rule-making activity.

Amendments would reduce emissions from gasoline transfer at bulk terminals and bulk plants, including episodic emissions, by requiring monitoring systems in bulk terminals and improving operating practices in terminals and plants. Mr. Gimlen then discussed the typical gasoline bulk terminal and bulk plant distribution system and presented a video example of a vapor leak.

Proposed Amendments:

- Monitoring
 - Monitor vapor recovery system backpressure
 - Reduce VOC emissions standard and monitor vapor recovery unit performance
 - Monitor vapor storage tanks, connectors and pressure/vacuum valves for leaks
 - Develop a monitoring, inspection, notification and reporting protocol
- Miscellaneous
 - Reduce liquid leak limit
 - Install additional valves for maintenance
 - Provide portable container for cleanup and maintenance
 - Hang vapor hoses out of the truck driveway
 - Install sample lines to inaccessible pressure/vacuum valves

Since the February 4th public hearing, staff received guidance from the ARB indicating the Air District has regulatory authority over vapor leaks, and the hearing was continued to impose a more stringent vapor leak limit. He said the limit is currently 100% of the lower explosive unit, or 50,000 ppm; however, much lower limits can be met. Staff proposes setting the limit at 3,000 ppm which was proposed in the final Rule and posted on March 11, 2009 for public comment. The lower limit applies to connector fittings and pressure/vacuum valves and allows for a repair period when self-discovered.

Economic Impacts:

- The rule is primarily monitoring focused, and the CEQA analysis shows no significant negative environmental impact;
- Seven (7) terminals already comply with hydrocarbon and back-testing monitoring;
- Five (5) will need to install facilities, with a total cost estimated to be \$50,000 to \$65,000 annually;
- The economic impact to bulk plants is less than \$3,000 annually;
- The cost effectiveness is \$13,200 per ton;
- Socioeconomic analysis shows no significant impact to terminals or bulk plants, with no job losses or impacts on small businesses.

Mr. Gimlen then reviewed the extensive Rule development process. Revisions have been incorporated into the proposed Rules and there were no additional public comments received after the March 11th posting of the notice.

The public hearing was opened.

Public Comments: Dennis Bolt, Western States Petroleum Association, supported the fee increase but disagreed with Sections 309.5.1 and 309.5.2 of the Rule, stating he believes it violates the principles of leak detection and repair, and requested leak detection be allowed to be detected by the operator.

Andy Katz, Breathe California, supported an indirect source review (ISR) of the Rule, believed this was an important action to help address impacts and an important measure to encourage infill development.

Chairperson Torliatt thanked Mr. Katz for his comments, and suggested that he speak under Item 9, which had not yet been presented to the Board.

Director of Planning and Research, Henry Hilken, responded to Mr. Bolt's comments, stating that staff added the provision at the specific recommendation of the Petroleum Association and wants operators maintaining and inspecting facilities. He believed that Mr. Bolt's proposal is limited and said most connectors are covered and receive the 72-hour repair period window; the provision only applies to the connection from the truck back to facilities. Staff also believes it is reasonable to employ penalties if violations occur.

The public hearing was closed.

Board Action: Director Groom moved to adopt proposed amendments to Regulation 8, Rule 33: Gasoline Bulk Terminals and Gasoline Delivery Vehicles; Adopt proposed amendments to Regulation 8, Rule 39: Gasoline Bulk Plants and Gasoline Delivery Vehicles; and Adopt a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) for this rule-making activity; seconded by Director Ross; unanimously approved without objection.

PRESENTATION:

Advisory Council Report and Recommendations from the February 11, 2009 Meeting on Air Quality and Public Health – *Presentation by Advisory Council Chairperson Harold Brazil, and Council Members Sarah Martin-Anderson and Jennifer Bard.*

Deputy APCO, Jean Roggenkamp introduced Advisory Council Chairperson Harold Brazil and Council Members Jennifer Bard and Sarah Martin-Anderson.

Chairperson Brazil reported that the Advisory Council had revised their meeting schedule to hold 4 symposiums, each on a specific topic, with additional meetings to review and arrive at recommendations. At the February 11, 2009 meeting, the Advisory Council received the following presentations:

- Community Air Risk Evaluation Program (CARE) Overview – Dr. Phil Martien, Ph.D., CARE Program Manager, BAAQMD
- Public Health, Air Quality and Equity – Dr. Anthony Iton, Alameda County Health Officer
- Health Disparities in Contra Costa – Dr. Wendel Brunner, Director of Public Health, Contra Costa County Health Services Department
- Air Pollution Hot Spots: Unregulated Health and Environmental Justice Issues in the United States – Dr. Rajiv Bahtia
- Air Quality and Public Health Santa Clara County – Dr. Martin Fenstersheib, Santa Clara County Health Officer

Sarah Martin-Anderson described the presentations as powerful, with consistent themes of health inequity and air quality, which identified:

- Low-income communities of color bear the burden of ill health in the Bay Area;
- Poverty is a social condition that interacts with air pollution to create this over-burden;
- The historical context of neighborhoods is important-cumulative impacts are reality;
- The responsibility of BAAQMD is to protect the public's health.

Ms. Martin-Anderson presented statistics from Alameda County Poverty and Life Expectancy by Tract maps taken from Dr. Iton's presentation, which revealed that poor health is concentrated in low income communities and poverty, race, lack of political power and air pollution have complex interactions that contribute to poor health and shortened life expectancy. Health and social inequities are positively correlated with exposure to sources of air pollution, such as freeways and industrial sources.

She said the Advisory Council received information about physical and mental health, respiratory disease, mental co-pollutants, noise, blight, and all speakers viewed the Air District

as a fellow public health agency and stressed their charge as protecting the public's health. She presented a correlation between neighborhood poverty rates and the Asthma Emergency Department Visit Rate, which shows West Oakland has two times the overall County rate. Also, data drives policy and empowers communities, and data must be accessible and easily understood, useable and participatory, as information empowers communities. Data should be localized and incorporate specific pollutant effects to assist health departments with conducting Health Risk Assessments. The Air District should continue to be a leader by expanding alliances with public health departments.

Statistics reveal that transportation is the largest source of ozone precursors, particles, TAC's and GHG; the Air District must be more proactive in regulating mobile sources within legal constraints; and public health and planning officials need Air District technical assistance in land use decision-making.

Council Member Jennifer Bard presented the Advisory Council's Recommendations, as follows:

1. Reducing health impacts from air pollution

Take all steps necessary to close gaps in monitoring programs to address cumulative impacts and "hot spot" areas, and emphasize actions that produce immediate risk reduction, including:

- Integrate consideration of both fine and coarse PM into all Air District programs, including the CARE Program, and establish PM fine and PM coarse health-based action levels for permitting.
- Review current rules to identify potential gaps in permitting related to the establishment of PM action levels noted above, including non major sources.
- Develop additional new source and existing source rules using a cumulative impacts approach to limiting health risk at the geographic scale of one or several city blocks.
- Conduct additional studies along freeway corridors and in areas impacted by multiple pollution sources, including localized saturation monitoring studies such as the CARE Program West Oakland Measurement Study.
- Require "hot spot" analysis of regional projects (roadway expansion), and/or coordinate with transportation project sponsors who may be responsible to conduct "hot spot" analysis.
- Implement expanded air quality modeling beyond identified toxic hot spots (to include near roadway areas).
- Develop an indirect source inventory for the Bay Area that identifies both small and large indirect sources of air pollution.

2. Public Outreach and Community Collaboration

- Present air pollution data in simple, understandable language and format and make it easily available to community stakeholders.
- Work with local Public Health Departments to engage community residents on air pollution issues, and use participatory methods, like the CARE Program West Oakland On-road Diesel Truck Survey, to better assess localized impact.

- Conduct a review of the effectiveness of current community outreach efforts at the Air District and develop an outreach program based on best practices.
- Develop land use best practices for local planning agencies to reduce air pollution and greenhouse gases and increase technical assistance on methods for Environmental Impact Review processes, hot spot analyses, and mitigation strategies.
- Add a Health Officer position to the BAAQMD staff, similar to the position at the South Coast AQMD. The Health Officer could provide guidance on decision making, act as a community liaison, monitor health outcomes related to air quality, and assist local governments with land use planning strategies that reduce air pollution and greenhouse gas emissions.

3. Legislation, Regulation and Policy

The Air District should continue to take a leadership role in advocating for strong regulations and aggressive enforcement, in addition to supporting legislation to protect overburdened communities:

- Increase enforcement and be more aggressive in requiring pollution reduction plans from major polluters, such as ports, facilities, and in monitoring implementation of those plans in highly polluted areas.
- Establish more stringent requirements for large and small point sources in overburdened communities, including grandfathered sources.
- Implement Indirect Source Rules (ISR) in order to ensure protection for overburdened communities and incorporate them in updated CEQA guidelines.
- Support strong regional greenhouse gas reduction targets through the AB 32 and SB 375 implementation process, to maximize air quality co-benefits.
- Support implementation of Container Fees at Ports to pay for air pollution mitigation and public health programs and support the upcoming Lowenthal bill.
- Investigate other strategies to fund emissions reductions and increase public transit service, such as gas taxes, increased vehicle license fees, and incentive programs, and support legislation to implement those strategies.
- Investigate what limits the agency's current legislation ability to regulate mobile sources, and propose changes to the law to increase our efforts in this area.

Ms. Bard acknowledged that the Air District was already engaged in many of the recommendations which will guide and support efforts to protect public health, and on behalf of the Advisory Council, she thanked the Board of Directors and staff for their leadership.

Discussion/Comments:

Directors thanked Advisory Council Members for formulating the report and recommendations and urged continuance of grass roots efforts. They agreed that the Air District is a partner in public health, discussed the need to address emissions at neighborhood levels and partner with health departments, and supported the need for a Public Health Officer.

Directors further discussed active community participation, susceptibility of children, seniors and other sensitive receptors. Mr. Broadbent noted that staff was working on increased

regulatory measures for sensitive receptors, i.e., preschools, schools, long-term health care facilities, and disproportionate communities.

Directors made the following recommendations/suggestions:

- (Gioia) Suggested a timetable and cost estimate be developed to address the Advisory Council's recommendations.
- (Miley) Requested two policy items be added to the recommendations: 1) Efforts be undertaken for cities and counties to create Public Health Elements as part of their General Plans; and 2) Further investigate alternative means of transit, specifically the promotion of bicycles.
- (Groom) Reported that all local hospitals must prepare a Community Health Assessment every five years; The San Mateo County Health Officer has prepared template language which agencies can utilize to assist in adopting Health Elements for their General Plans.
- (Haggerty) Questioned whether Valley Care Hospital was contacted, stating that the asthma rate reflected in Dr. Iton's map along the I-580 corridor was almost non-existent.

Public Comments: Dennis Bolt, WSPA, supported a Public Health Officer position, discussed statistics regarding emergency room visit rates and briefly discussed a study he conducted in 1994 on paramedic responses; stating Oakland experienced more than double the responses over San Jose, and San Pablo and Richmond's responses were even higher. He cited the dismantling of the public health system, the primary determinant of infant mortality as household employment, and asked for cautious review when expanding businesses.

Board Action: None; Directors received and filed the Report and Recommendations of the Advisory Council.

Board Member Comments: None

Time and Place of Next Meeting: 9:45 a.m., Wednesday, May 6, 2009, Board Room, 939 Ellis Street, San Francisco, CA 94109.

Adjournment: Meeting adjourned at 11:35 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: April 28, 2009

Re: Board Communications Received from April 15, 2009 through May 5, 2009

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from April 15, 2009 through May 5, 2009, if any, will be at each Board member's place at the May 6, 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: April 28, 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 April 1 – April 30, 2009. Out-of-state travel is reported in the month following travel completion.

DISCUSSION

Alison Kirk, Environmental Planner II, attended the American Planning Association National Conference in Minneapolis, MN April 25 – 29, 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 Pamela Torliatt and Members
of the Board of Directors

From: Jack Broadbent
Executive Officer/APCO

Date: April 27, 2009

Re: Consider Establishing New Job Classifications of Health Officer and Manager,
Executive Operations

RECOMMENDATION

Approve establishment of new job classifications of Health Officer with an annual salary range starting at \$105,227 and ending at \$127,904 (Salary Range 148M) and that of Manager, Executive Operations with an annual salary range starting at \$105,227 and ending at \$127,904 (Salary Range 148M). Also, reclassify an existing vacant Air Quality Engineering Manager position (also at Salary Range 148M) to Manager, Executive Operations. The new job classifications will be effective upon Board of Directors' approval.

DISCUSSION

The Proposed FYE 2010 budget provides for the creation of a new job classification of Health Officer.

The Health Officer job classification will provide leadership and advice on health related policy matters and strategies including conducting complex health related projects and studies. This job classification will be responsible for developing and presenting health policy issues and recommendations to the District Board and executive management.

To address efficiencies in the Executive Office, the Air District will benefit by establishing the new job classification of Manager, Executive Operations. This classification performs and coordinates varied and complex administrative activities that often involve confidential matters and provides administrative support to the Executive Officer/APCO.

The Board of Directors' approval of the new job classifications and the attached draft job descriptions are needed in order for the classifications to be added to the classification system.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There is no financial impact beyond that already contemplated in the Proposed FYE 2010 budget.

Respectfully Submitted,

Jack Broadbent
Executive Officer/APCO

DRAFT

HEALTH OFFICER

DEFINITION

Under direction, provides leadership and advice on health related policy matters and strategies including conducting complex health related projects and studies; serves as the District's liaison with other agencies; performs related work as assigned.

DISTINGUISHING CHARACTERISTICS

This single-position class is a management level specialized position. The incumbent performs project-oriented assignments requiring considerable professional knowledge and significant independent action and judgment. The incumbent may provide lead direction to staff, is responsible for health-related policy and program development and implementation, and performs complex health related activities for the District. Incumbents may represent the District in strategic situations and speak with the authority of the District; successful performance requires the use of sound judgment and initiative. Supervision of others may be assigned to this classification for special projects for a limited duration.

EXAMPLES OF DUTIES (Illustrative Only)

Reviews health policy issues related to air quality; develops and presents recommendations to the District's Board and executive management.

Devises substantive health related policy and strategy for the District.

Provides leadership and coordinates staff in conducting analyses of health related issues; summarizes, prepares and presents reports of findings; coordinates with divisions to develop related policies and recommendations for actions to mitigate effects or address the issues.

Conducts complex and specialized health issue related studies involving technical, administrative and policy matters, often of a confidential nature.

Tracks, reviews and analyzes current and proposed health related policies, regulations and legislation on the state, national and global level; notifies the District of significant activities and implications.

Assists in the development and implementation of goals, objectives, policies, procedures and work standards.

Researches national, state and local policy designed to address environmental health impacts; prepares opinions and recommendations on health related issues which impact the Air District's programs and initiatives.

Represents the District with industry, the public, special interest groups and other agencies on air quality and health and related matters. Represents the District to external stakeholders; may lead outreach efforts to the media and community groups when assigned.

Provides lead direction, training and work review to professional, technical and support staff; resolves technical questions relating to the work.

Assists with the development of the District's strategic plan and managing its implementation.

Attends Air District departmental, board and committee meetings.

Directs and/or leads staff as assigned.

Manages personnel and resources as assigned.

Other duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of public health and medical science, especially as related to air quality.

Applicable District rules and regulations and state and federal laws.

Principles and practices of public administration.

Principles and practices of effective public relations.

Methods and techniques of research, statistical analysis and report presentation.

State and federal legislative processes.

Principles and practices of effective writing.

Basic supervisory principles and practices.

Skill in:

Analyzing complex health-related, technical and administrative problems, evaluating alternative solutions and recommending effective courses of action.

Planning, assigning, directing and reviewing the work of others.

Interpreting and explaining state and federal laws, rules and regulations affecting public health and the environment.

Establishing and maintaining effective working relationships with those contacted in the course of the work.

Exercising sound independent judgment within general policy guidelines.

Preparing clear and concise reports, correspondence and other written materials.

Making persuasive presentations of ideas and recommendations to a variety of audiences.

Selecting, training and motivating staff.

Ability to:

Understand and explain the effects of environmental health-related issues, laws and regulations on District policy.

Understand state and federal laws affecting District policy.

Interpret, explain and apply District, state and federal air quality laws, rules and regulations.

Balance multiple demands and deadlines effectively.

Provide effective leadership and supervision to assigned staff.

Other Requirements:

Must possess a valid California driver's license.

Education and Experience:

A typical way to obtain the knowledge and skills is:

Equivalent to university graduation at the doctorate level with major coursework in public health (PhD) or medicine (M.D.) and one year of experience relative to the health effects of air pollution, or, achievement of a Masters (MPH) level degree in public health and three years of experience relative to the health effects of air pollution, including one year of lead or supervisory experience.

Working Conditions and Physical Demands

Work is performed in an office environment with limited exposure to conditions such as dust, fumes, odors, or noise. It involves occasional travel by car requiring the ability to see colors of traffic signs and notice and react to traffic, pedestrian and road conditions. Physical demands include the ability to use a computer for several hours a day, telephone, and other electronic communication devices. Also, occasionally lifting boxes weighing 20-30 pounds, walking, standing, bending and reaching.

FLSA – Exempt

MANAGER, EXECUTIVE OPERATIONS

DEFINITION

Under general direction, coordinates varied and complex administrative activities that often involve confidential matters and provides administrative support to the Executive Office; supervise, train, review and evaluate work of other Executive Office staff, and performs related work as assigned.

DISTINGUISHING CHARACTERISTICS

This class performs professional level administrative functions that require constant use of discretion, initiative, independent judgment, and highly effective interpersonal skills. Responsibilities include coordinating contact with and response to governmental officials, the District Board of Directors, Advisory Council, Hearing Board, representatives of business or community organizations and the public; providing direction to staff; and interacting on a daily basis with all levels of District personnel with regard to administrative policies, procedures, programs and initiatives.

EXAMPLES OF DUTIES (Illustrative Only)

Coordinates the flow of information to the Executive Office as required for policy and operational decisions.

Works with the District's management and executive staff, the public and others to plan and prepare Board of Director agendas; oversees preparation and distribution of the agenda.

Receives and reviews all Board of Directors, Advisory Council and Hearing Board agenda items to ensure that all submittals are complete and in compliance with established procedures.

Researches, compiles, analyzes, and summarizes a variety of informational and/or statistical data and materials. Creates and gives presentations to staff as assigned.

Composes routine and complex correspondence and reports and prepares a wide variety of finished documents from stenographic notes, brief instructions, or printed materials; makes extensive use of personal computer systems and the internet to accomplish assigned tasks.

Provides administrative follow-up on action items from staff meetings, Board of Director meetings, and handles assigned projects; stays informed of District activities as necessary to accomplish work.

Plans and conducts a variety of special administrative projects and studies for the Executive Office.

Organizes meetings by notifying participants, making room arrangements, preparing agendas and required informational materials; may attend and participate in such meetings, hearings, etc., and prepare minutes and/or follow-up reports and correspondence.

Organizes own work, sets priorities and meets critical deadlines; ensures that such deadlines are met by other staff.

MANAGER, EXECUTIVE OPERATIONS
MAY 2009
PAGE 2 OF 3

May supervise, train, review and evaluate work of other Executive Office staff as assigned by the Executive Officer/APCO.

QUALIFICATIONS

Knowledge of:

Office administrative practices and procedures, such as business letter writing and the operation of a variety of office equipment, including personal computer software and the internet.

Organization and function of public agencies, including the role of elected Board of Directors and appointed councils and committees.

Records management, report writing and preparation, research techniques.

Correct usage of the English language, including spelling, grammar, punctuation, and vocabulary.

Standard business arithmetic, including percentages and decimals.

Effective practices used in interacting with assigned staff, co-workers and a wide variety of District stakeholders.

Skill in:

Resolving unusually difficult and highly complex programmatic and/or technical issues.

Interpersonal, communication and organizational interactions.

Learning and adapting quickly.

Anticipating potentially controversial issues and highlighting the potential programmatic impacts.

Providing varied, responsible, and often confidential administrative assistance to an executive and associated staff and boards.

Interpret, explain and apply complex policies, regulations, and procedures.

Prepare clear, accurate and effective reports, correspondence, policies and other written materials.

Use of tact, discretion, initiative and independent judgment within established guidelines.

Preventing and resolving conflicts and problems that arise in an office setting.

Researching, compiling, analyzing and summarizing a variety of informational reports and statistical data and materials.

Composing routine and complex correspondence and reports under general direction.

MANAGER, EXECUTIVE OPERATIONS
MAY 2009
PAGE 3 OF 3

Establishing and maintaining effective and cordial working relationships.

Organizing and coordinating work, setting priorities, meeting critical deadlines, and initiating follow-up under general direction.

Editing a variety of written materials.

Using computer software applications, including word processing and spreadsheets.

Other Requirements:

Specified positions may require possession of a valid driver's license.

Education and Experience:

A typical way to obtain the knowledge and skills is:

Education equivalent to graduation from a four-year college or university with coursework in business, public administration, or a closely related discipline; and two years of experience as an executive assistant to an executive manager in a complex organizational setting, preferably in the public sector.

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: April 28, 2009

Re: Approval of a Contractor to Replace the District's Meteorological Model

RECOMMENDED ACTION

Approval of Pennsylvania State University (Penn State) as the contractor for replacing the District's meteorological model, which is used for generating meteorological inputs to air quality models for simulating ozone, particulate matter and air toxics in the Bay Area; and authorizing the Executive Officer to execute a contract not to exceed \$100,000 with Penn State to provide services for replacing the meteorological model.

BACKGROUND

The District routinely applies air quality models to simulate particulate matter, air toxics and ozone concentrations in the Bay Area to assess the region's attainment status with respect to ozone and particulate matter, support Federal and State air quality plan development activities, quantify transport of ozone and PM and their precursors within the Bay Area and between the Bay Area and neighboring districts, and evaluate the effectiveness of proposed and adopted emission controls.

Air quality modeling also provides technical information to various District programs, including: the CARE Program, the Carl Moyer Program, the Climate Protection Program, and the Rule Development Program.

Meteorological inputs to air quality models have been prepared using the Mesoscale Model Version 5 (MM5). MM5 is now a discontinued model and users are upgrading to the more efficient Weather Research and Forecasting (WRF) model.

DISCUSSION

Under this contract, the District seeks to have the newly developed WRF model evaluated in the Bay Area for periods previously simulated with MM5 to verify performance; apply air quality models with WRF-generated inputs; compare air quality model performance between simulations using MM5- and WRF-generated inputs; and optimize the performance of the WRF model for the region under both summer and winter conditions. The District is seeking a contractor to assist in the execution of these tasks and make recommendations for the future use of the WRF model for the Bay Area.

On March 3, 2009 the District published Request for Proposals No. 2009-19. The objective of the

RFP was to contract with a qualified and experienced firm to assist the District in replacing the MM5 model. The District received the following ten proposals and while all proposals were deemed responsive to the RFP, some did not appear to offer sufficient experience with either model. The proposals were evaluated against criteria set forth in the RFP including: responsiveness to the RFP, expertise and experience of the proposed team, experience of the project manager(s), local/green business certification and cost.

Summary of Responses to the Request for Proposals for Replacing Meteorological Model

Company Name	Cost	Total Points
Pennsylvania State University	\$ 99,895	95
Georgia Tech Research Corporation	\$ 99,976	93
Sonoma Technology, Inc.	\$ 98,931	88
Environ Corp.	\$ 92,891	86
AECOM, Inc.	\$96,074	84
AER	\$98,951	79
Trinity Consultants	\$59,000	76
DRI	\$85,007	73
Custom Weather, Inc	\$91,980	60
Greenleaf Systems	\$152,250	44

The proposals were first evaluated by three highly qualified staff members with Ph.D. degrees in the subject field from the Planning and Research Division and one staff member from the Administrative Services Division. This initial evaluation identified the top two highest scoring proposals. The top two proposals were then further evaluated by District staff as well as a highly qualified staff member from the U.S. EPA’s Region 9 office. Based on the RFP evaluation criteria listed above, the Penn State proposal scored the highest. While some proposers’ bids were lower than that of Penn State, staff believes that the selection of Penn State is warranted based on their extensive modeling experience, their active involvement in the development of the WRF model, and the strength of their project management team. If approved by the Board of Directors, the term of the contract with the contractor would be for eighteen months.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

Funding for consultant services to replace the District’s meteorological model is included in the approved FY 2008/2009 District budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Saffet Tanrikulu
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: April 23, 2009

Re: Report of the Legislative Committee Meeting of April 15, 2009

RECOMMENDED ACTIONS

The Legislative Committee recommends Board of Directors' approval of:

Option B: Under this option, the populations at which counties add additional representatives would be changed. A second representative would be added at 350,000 (rather than 300,000). A third representative would be added at 800,000 (rather than 750,000). A fourth representative would be added at 1,200,000 (rather than 1,000,000). However, existing representatives from counties that have already exceeded the current population triggers would not be removed, but counties would not add representatives until the new triggers are reached. This would keep the Board at its current size of 22 members for perhaps another decade.

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

BILL	AUTHOR	DESCRIPTION	POSITION
AB 96	Ruskin	Changes to gasoline underground storage tank grant program	SUPPORT
AB 1033	Nielsen	Imposes new requirements on state and local agencies adopting GHG regulations	OPPOSE
AB 1527	Lieu	Allows a single motor vehicle emission reduction project to be funded from multiple grant programs	SUPPORT
SB 232	Benoit	Would allow an unlimited number of specialty constructed vehicles to be registered annually	OPPOSE
SB 295	Dutton	Would prevent AB 32 implementation until the unemployment rate is below 5.8% for 3 months	OPPOSE
SB 385	Wright	Exempts historic vehicles from smog check, and allows owners to self-certify that their vehicle is historic	OPPOSE
SB 425	Simitian	Creates a new employer-based trip reduction program	SUPPORT IF AMENDED
SB 518	Lowenthal	Reforms parking policy to reduce driving and associated emissions	SUPPORT
SB 811	DeSaulnier	Requires specialty constructed vehicles from out-of-state to meet emissions requirements for their year of manufacture	SUPPORT

BACKGROUND

The Legislative Committee met on Wednesday, April 15, 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 revised poll conducted on Board size and composition, which included additional proposals from Board members.

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: April 7, 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

Staff are bringing additional air quality bills to the Committee for its consideration. In addition to the bills analyzed below, staff may present a few additional bills to the Committee verbally. As of today's date, a number of air quality bills are still in spot form. However, staff anticipate that some of these will likely be amended between the date of preparation of this memorandum and the Committee's meeting. The Committee may want to consider taking a position on the most significant of such measures. The longer list of air quality bills is attached, which shows their status. Finally, copies of the bills below are attached.

ANALYSES

AB 96 is authored by Assemblymember Ira Ruskin (D-Redwood City). It provides up to \$8 million in financial assistance to smaller gas station owners to help them comply with clean air requirements. In March of 2000, the Air Resources Board (ARB) adopted a requirement that gas stations improve their equipment designed to prevent gasoline vapors from escaping into the air. This equipment is referred to as 'enhanced vapor recovery phase II', or EVR. The regulation will prevent 10 tons per day of smog-forming emissions statewide. The deadline for this equipment to be operational at stations was April 1, 2009.

While ARB adopted the regulation, enforcement is done by local air districts. While the majority of stations have installed the equipment, many have not. There are a variety of reasons why not all stations are in compliance with EVR, including the costs of the equipment, some owners' inability to get loans to pay for the equipment, local land use permitting delays, and procrastination. District staff have undertaken a massive outreach and education program with the stations well in advance of the deadline, and are now working to bring everyone into compliance as quickly as possible. This bill will help bring more stations into compliance and reduce emissions, so staff recommend a "**Support**" position.

AB 1033 is authored by Assemblymember Jim Nielsen (R-Biggs). It is a response to what the author believes to be a poor economic analysis by ARB of its scoping plan, which was prepared to help California meet its greenhouse gas reduction targets. However, the bill imposes its new and onerous requirements on not only ARB, but also local agencies who are or wish to adopt greenhouse gas reductions through regulatory action. It would require agencies to quantify the

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effectiveness of existing regulations prior to adopting new regulations. It would require independent third-party analysis of such regulations. It would prevent any new regulations being adopted on sources that are already regulated, until eight years after the source is in compliance with all earlier regulation. Staff believe that this would effectively halt both greenhouse gas reduction efforts already underway and in the planning stages, and recommend an “**Oppose**” position.

AB 1527 is authored by Ted Lieu (D-Torrance). As concern over California’s air quality and climate change problems has grown, so have the number of State grant programs to cut emissions. In addition to the Carl Moyer program, we now have the Goods Movement Emissions Reduction Program (GMERP; from 2006’s Proposition 1B) and 2007’s AB 118 program. Each program has separate rules and requirements. This complicates things for those who try to apply for funding, as well as for the air districts administering the projects funded through these programs. This bill essentially allows multiple grant programs to be combined to fund a single air quality project. Staff support the streamlining of grant programs, and recommend a “**Support**” position.

SB 232 is authored by Senator John Benoit (R-Palm Desert). In essence, it would dramatically expand an existing loophole to California’s smog check program. The loophole was established in 2001, and allows 500 vehicles per year to be permanently exempted from smog check. So-called specialty constructed vehicles are eligible to apply for the 500 annual slots. This bill would eliminate the cap of 500 such slots and allow an unlimited number of these vehicles to operate without emissions inspections. Unfortunately, many of these vehicles (which are typically hot rods) operate without emissions controls. Furthermore, this bill would also allow motorists who have registered their vehicles incorrectly specifically to escape the smog check program to be legally exempted from the program. Thus, it would undo last year’s successful AB 619 (which the District supported) 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. Staff are recommending an “**Oppose**” position on this measure.

SB 295 is authored by Senator Bob Dutton (R-Inland Empire). It is an urgency measure, and is triggered by the author’s concerns with the California Global Warming Solutions Act of 2006, commonly called AB 32. Senator Dutton believes that the current poor economic climate should halt greenhouse gas regulations. The bill would prohibit implementing any of ARB’s AB 32 regulations until unemployment in the State has been below 5.8% for three consecutive months. It would also require new economic analyses of both the scoping plan and regulations adopted to implement AB 32. Staff note that the District supported AB 32 without any economic caveats, and recommend an “**Oppose**” position on this measure.

SB 385 is authored by Senator Rod Wright (D-Los Angeles). Essentially, it would allow certain vehicles made in 1976 and more recently to be exempted from the smog check program. It is sponsored by an automobile museum, which is concerned that requiring smog checks means fewer older vehicles will be preserved for posterity’s sake. The District sponsored the bill in 2004 (AB 2683-Lieber) that required that 1976 and newer vehicles be subject to smog check. In many respects, this bill is an attempt to partly undo AB 2683 by those who unsuccessfully fought its passage. The issues that the sponsors of SB 385 raise were discussed at length in 2004. Staff note that the Bureau of Automotive Repair has an exemption process for older vehicles that cannot obtain needed emissions control parts. These vehicles are allowed to pass smog, even though their emissions are far above allowable levels, if the needed parts are not available. The Department of Motor Vehicles allows cars to be registered as non-operable, and these vehicles are also exempt from smog check. The costs of insuring, garaging, and maintaining older vehicles far outweigh the costs of smog check inspection for these vehicles. But fundamentally,

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older vehicles are those most in need of emissions inspections. Exempting them from smog check will increase emissions, and staff recommend an “**Oppose**” position on this measure.

SB 425 is authored by Senator Joe Simitian (D-Palo Alto). Like a number of other bills, it is still being amended prior to being heard in its first policy committee. Staff have had a series of discussions with the author’s office concerning the bill, and have learned that they plan to amend the bill shortly. Staff anticipate that the amended version of the bill will be in print prior to April 15th, and if this is so, will present the amended version to the Committee. Staff expect that the amended bill will essentially bring about better compliance with the State’s existing parking cash-out law that the Committee discussed at its last meeting. Senator Simitian’s amended bill would do this by having businesses who are not complying with the existing law lose their business tax deduction for the parking they provide to their employees. The Franchise Tax Board would check for compliance with existing law in their auditing process, and this would effectively bring about better compliance with existing law. Staff are recommending a “**Support if amended**” position, dependent on these amendments actually being introduced.

SB 518 is authored by Senator Alan Lowenthal (D-Long Beach), and is another bill that would cut greenhouse gas emissions by reforming parking policy. It is sponsored by the Natural Resources Defense Council. Its premise is that “free” parking and hidden parking subsidies have high social, economic, and environmental costs, and that California cannot meet its greenhouse gas emission reduction goals without reductions in drive-alone travel. It would generally prohibit the State and community colleges from subsidizing parking. (The University of California and California State University systems already have such a prohibition.) It also establishes a diverse menu of roughly a dozen different reforms in parking policy that local governments can choose among. These include installing meters in areas with parking shortages, charging for metered parking at market rates, eliminating minimum parking requirements, and having employers offer transit passes on a pre-tax basis. This last option is effectively what San Francisco did recently, with the support of both local employers and business groups and environmental organizations. Different menu options are assigned different point values, and local governments would be required to have in place some minimum level of reforms. Staff recommend a “**Support**” position on this bill.

SB 811 is authored by Senator Mark DeSaulnier (D-Antioch). It is sponsored by the Attorney General’s office, after their investigation into fraudulent registrations uncovered a large number of vehicles that had their emissions controls tampered with. These California vehicles are titled in a handful of other states, with the motorist choosing a year prior to 1976 for the vehicle’s model year. (Vehicles older than 1976 are not subject to emissions inspections.) These other states do not inspect the vehicle, let alone its engine or emissions controls. The owner then registers the car in California, which takes the model year from the other state’s title paperwork on faith. Last year’s AB 619 (Emmerson) dealt with the vehicles that had already come through this loophole. SB 811 closes the loophole, preventing those who have tampered with or removed emissions controls from escaping smog check this way in the future. Staff 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

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 96

Introduced by Assembly Member Ruskin
(Principal coauthor: Assembly Member Chesbro)

January 6, 2009

An act to amend ~~Section~~ *Sections 25299.81, 25299.105, 25299.109, and 25299.117* of the Health and Safety Code, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 96, as amended, Ruskin. Gasoline: underground storage tanks.

Existing

(1) *Existing* law provides for the regulation of underground storage tanks by the State Water Resources Control Board. Existing law requires the board to take specified actions with regard to unauthorized releases from petroleum underground storage tanks, including, among other things, adopting regulations requiring the owners of those tanks to undertake certain actions.

Existing law provides for a grant *and loan* program for small businesses ~~to use~~ to pay specified costs of complying with the underground storage tank regulations adopted by the board. ~~Eligibility~~ *Existing law contains various eligibility criteria for the grant funds, as specified in existing law, requires, including a requirement that the grant applicant, the applicant's family, or an affiliated entity, has owned and operated the project tank since January 1, 1997.*

This bill would delete that ownership requirement from the grant eligibility criteria.

(2) Under existing law, the grant and loan program is funded through the Petroleum Underground Storage Tank Financing Account. Existing law allows not more than 33% of the available funds to be used for the purpose of providing grants. Existing law requires the interest and other increments resulting from the investment of the funds in the account to be placed in a separate subaccount to be expended for the administration of the program.

This bill would make a one time transfer of \$8,000,000 from the administrative subaccount to be appropriated for the purpose of making grants in the 2008–09 and 2009–10 fiscal years, and would exclude these funds from the amount of funds from which grants are provided pursuant to existing law.

(3) Existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, provides, in part, for the establishment of an Underground Storage Tank Cleanup Fund to pay for various costs of corrective action and abatement for the unauthorized release of hazardous materials from underground storage tanks. The provisions of this act will expire January 1, 2016. Under existing law, upon the expiration of the Petroleum Underground Storage Tank Financing Account on January 1, 2011, the funds remaining in that account revert to the Underground Storage Tank Cleanup Fund.

This bill would extend the repeal date of the grant and loan program as well as the Petroleum Underground Storage Tank Financing Account to January 1, 2016. Additionally, it would make provisions for the payment of loans and grants, conditions of which were effective prior to January 1, 2016, from the Underground Storage Tank Cleanup Fund and the Petroleum Underground Storage Tank Financing Account, as specified.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 25299.81 of the Health and Safety Code
- 2 is amended to read:
- 3 25299.81. (a) Except as provided in subdivisions (b) and (c),
- 4 this chapter shall remain in effect only until January 1, 2016, and

1 as of that date is repealed, unless a later enacted statute, which is
2 enacted before January 1, 2016, deletes or extends that date.

3 (b) Notwithstanding subdivision (a), Article 1 (commencing
4 with Section 25299.10), Article 2 (commencing with Section
5 25299.11), and Article 4 (commencing with Section 25299.36)
6 shall not be repealed and shall remain in effect on January 1, 2016.

7 (c) The repeal of certain portions of this chapter does not
8 terminate any of the following rights, obligations, or authorities,
9 or any provision necessary to carry out these rights and obligations:

10 (1) The filing and payment of claims against the fund, including
11 the costs specified in subdivisions (c), (e), and (h) of Section
12 25299.51, and claims for commingled plumes, as specified in
13 Article 11 (commencing with Section 25299.90), until the moneys
14 in the fund are exhausted. Upon exhaustion of the fund, any
15 remaining claims shall be invalid.

16 (2) The repayment of loans, outstanding as of January 1, 2016,
17 due and payable to the board.

18 (3) The recovery of moneys reimbursed to a claimant to which
19 the claimant is not entitled, or the resolution of any cost recovery
20 action.

21 (4) The collection of unpaid fees that are imposed pursuant to
22 Article 5 (commencing with Section 25299.40), as that article read
23 on December 31, 2015, or have become due before January 1,
24 2016, including any interest or penalties that accrue before, on, or
25 after January 1, 2016, associated with those unpaid fees.

26 (5) (A) The filing of an application for funds from, and the
27 making of payments from, the Underground Storage Tank
28 Petroleum Contamination Orphan Site Cleanup Fund pursuant to
29 Section 25299.50.2, any action for the recovery of moneys paid
30 pursuant to Section 25299.50.2 to which the recipient is not
31 entitled, and the resolution of that cost recovery action.

32 (B) Upon liquidation of funds in the Underground Storage Tank
33 Petroleum Contamination Orphan Site Cleanup Fund, the obligation
34 to make a payment from the Underground Storage Tank Petroleum
35 Contamination Orphan Site Cleanup Fund is terminated.

36 (6) (A) *The payment of loans and grants, consistent with the*
37 *terms of agreements that were effective prior to January 1, 2016,*
38 *from the Underground Storage Tank Cleanup Fund, pursuant to*
39 *this chapter or the Petroleum Underground Storage Tank*
40 *Financing Account pursuant to Chapter 6.76 (commencing with*

1 Section 25299.100). Upon exhaustion of the Underground Storage
2 Tank Cleanup Fund, any remaining claims for payment of grants
3 or loans shall be invalid.

4 (B) The amount of money disbursed for grants and loans
5 pursuant to Chapter 6.76 (commencing with Section 25299.100)
6 shall not exceed the sum of following:

7 (i) The amount that reverts to the Underground Storage Tank
8 Cleanup Fund pursuant to Section 25299.111.

9 (ii) Amounts recovered through the repayment of loans granted
10 pursuant to Chapter 6.76 (commencing with Section 25299.100).

11 (iii) The resolution of any cost recovery action filed prior to
12 January 1, 2016, or the initiation of an action or other collection
13 process to recover defaulted loan moneys due to the board or to
14 recover money paid to a grant or loan recipient pursuant to
15 Chapter 6.76 (commencing with Section 25299.100) to which the
16 recipient is not entitled.

17 (d) The board shall continuously post and update on its Internet
18 Web site, but at a minimum, annually on or before September 30,
19 information that describes the status of the fund and shall make
20 recommendations, when appropriate, to improve the efficiency of
21 the program.

22 ~~SECTION 4.~~

23 SEC. 2. Section 25299.105 of the Health and Safety Code is
24 amended to read:

25 25299.105. (a) The board shall make grant funds available
26 from the Petroleum Underground Storage Tank Financing Account
27 to eligible grant applicants who meet all of the following eligibility
28 requirements:

29 (1) The grant applicant is a small business, pursuant to the
30 following requirements:

31 (A) The grant applicant meets the conditions for a small business
32 concern as defined in Section 632 of Title 15 of the United States
33 Code, and in the federal regulations adopted to implement that
34 section, as specified in Part 121 (commencing with Section
35 121.101) of Chapter I of Title 13 of the Code of Federal
36 Regulations.

37 (B) The grant applicant employs fewer than 20 full-time and
38 part-time employees, is independently owned and operated, and
39 is not dominant in its field of operation.

1 (2) The principal office of the grant applicant is domiciled in
2 the state and the officers of the grant applicant are domiciled in
3 this state.

4 (3) All tanks owned and operated by the grant applicant are
5 subject to compliance with Chapter 6.7 (commencing with Section
6 25280), and the regulations adopted pursuant to that chapter.

7 (4) The facility where the project tank is located has sold at
8 retail less than 900,000 gallons of gasoline annually for each of
9 the two years preceding the submission of the grant application.
10 The number of gallons sold shall be based upon taxable sales
11 figures provided to the State Board of Equalization for that facility.

12 (5) The grant applicant owns or operates a tank that is in
13 compliance with Section 25290.1, 25290.2, or 25291, or
14 subdivisions (d) and (e) of Section 25292, and the regulations
15 adopted to implement those sections.

16 (6) The facility where the project tank is located was legally in
17 business retailing gasoline after January 1, 1999.

18 (b) Grant funds may only be used to pay the costs necessary to
19 comply with the requirements of Section 25284.1, 25292.4, or
20 25292.5.

21 (c) If the total amount of grant requests by eligible grant
22 applicants to the board pursuant to this section exceeds, or is
23 anticipated to exceed, the amount in the Petroleum Underground
24 Storage Tank Financing Account, the board may adopt a priority
25 ranking list to award grants based upon the level of demonstrated
26 financial hardship of the eligible grant applicant or the relative
27 impact upon the local community where the project tank is located
28 if the claim is denied.

29 *SEC. 3. Section 25299.109 of the Health and Safety Code is*
30 *amended to read:*

31 25299.109. (a) The Petroleum Underground Storage Tank
32 Financing Account is hereby created in the State Treasury. The
33 Petroleum Underground Storage Tank Financing Account is created
34 for both of the following purposes:

- 35 (1) Receiving federal, state, and local money.
36 (2) Receiving repayments of loans and interest and late fees on
37 those accounts.

38 (b) Upon appropriation by the Legislature, funds in the account
39 shall be used by the board only to make loans and grants pursuant
40 to this chapter.

1 (c) The board shall annually make available not more than 33
2 percent of the available funds from the account, *other than funds*
3 *transferred pursuant to subdivision (e)*, for the purposes of
4 providing grants pursuant to this chapter.

5 (d) Notwithstanding Section 16305.7 of the Government Code,
6 all interest or other increments resulting from the investment of
7 the funds in the Petroleum Underground Storage Tank Financing
8 Account pursuant to Article 4 (commencing with Section 16470)
9 of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government
10 Code shall be deposited in a subaccount of the Petroleum
11 Underground Storage Tank Financing Account, and expended only
12 pursuant to Section 25299.113.

13 (e) *The sum of eight million dollars (\$8,000,000) is hereby*
14 *transferred from the subaccount established in subdivision (d) to*
15 *the Petroleum Underground Storage Tank Financing Account and*
16 *is appropriated for the purpose of making grants pursuant to this*
17 *chapter in the 2008–09 and 2009–10 fiscal years.*

18 *SEC. 4. Section 25299.117 of the Health and Safety Code is*
19 *amended to read:*

20 25299.117. This chapter is repealed as of January 1, ~~2011~~ 2016,
21 unless a later enacted statute that is enacted on or before January
22 1, ~~2011~~ 2016, deletes or extends that date.

23 *SEC. 5. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 *In order to immediately finance projects critical to the protection*
28 *of the environment it is necessary that this act, at the earliest*
29 *possible time, take effect immediately.*

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1033

Introduced by Assembly Member Nielsen

February 27, 2009

~~An act to amend Section 39002 of the Health and Safety Code, relating to air pollution.~~ *An act to add Section 38567 to the Health and Safety Code, relating to air pollution.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as amended, Nielsen. ~~Air pollution.~~ *California Global Warming Solutions Act of 2006: greenhouse gas emissions: regulation.*

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 level in 1990 to be achieved by 2020. The state board is required to adopt greenhouse gas emissions limits and emission reduction measures by regulation to achieve the prescribed emission reductions.

This bill would require a state or local agency, before adopting or amending a regulation after January 1, 2010, to evaluate and measure the effectiveness of any regulations adopted by the state or local agency on or before January 1, 2010, to reduce greenhouse gas emissions, and obtain an independent 3rd-party economic impact analysis of any proposed regulation that the state or local agency determines would impose aggregate costs of \$1,000,000 or more on greenhouse gas

emission sources subject to the proposed regulation, irrespective of the economic or noneconomic benefits of the regulation.

The bill would require a state or local agency to consider the severity of any adverse economic impact identified by the 3rd-party analysis, and would authorize the agency on that ground to revise or choose not to adopt the proposed regulation. The bill would require the agency, if it adopts the proposed regulation without revision, to make findings, supported by evidence, that the adoption of the proposed regulation is reasonable.

The bill would prohibit a state or local agency from adopting or amending a regulation to reduce greenhouse gas emissions after January 1, 2010, that imposes a greenhouse gas emission requirement on a greenhouse gas emission source that is more stringent than any regulation adopted by that state or local agency on or before January 1, 2010, that is applicable to that emission source, until eight years after the date that emission source achieved compliance with that earlier regulation.

~~Existing law generally gives responsibility for the control of air pollution from vehicular sources to the State Air Resources Board and from all other sources to local and regional authorities, as provided.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

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

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

- 1 SECTION 1. Section 38567 is added to the Health and Safety
- 2 Code, to read:
- 3 38567. (a) It is the intent of the Legislature in enacting this
- 4 section to promote the reasoned, restrained, and economically
- 5 sensitive regulation of greenhouse gas emissions.
- 6 (b) Before adopting or amending a regulation to reduce
- 7 greenhouse gas emissions after January 1, 2010, pursuant to this
- 8 division or other authority, a state or local agency shall do all of
- 9 the following:
- 10 (1) Evaluate and measure the effectiveness of any existing
- 11 regulations adopted by the state or local agency to reduce
- 12 greenhouse gas emissions, including measuring the greenhouse

1 *gas emission reductions from regulations adopted on or before*
2 *January 1, 2010.*

3 *(2) Obtain an independent third-party economic impact analysis*
4 *of any proposed regulation that the state or local agency*
5 *determines would impose aggregate costs of one million dollars*
6 *(\$1,000,000) or more on greenhouse gas emission sources subject*
7 *to the proposed regulation, irrespective of the economic or*
8 *noneconomic benefits of the regulation.*

9 *(3) The state or local agency shall consider the severity of any*
10 *adverse economic impact identified pursuant to paragraph (2),*
11 *and on that basis may revise or choose not to adopt the proposed*
12 *regulation. If the state or local entity adopts the proposed*
13 *regulation without revision, the state or local agency shall make*
14 *findings, supported by evidence, that the adoption of the proposed*
15 *regulation is reasonable.*

16 *(c) The state or local agency shall not adopt or amend a*
17 *regulation to reduce greenhouse gas emissions after January 1,*
18 *2010, pursuant to this division or other authority, that imposes a*
19 *greenhouse gas emission requirement on a greenhouse gas*
20 *emission source that is more stringent than any regulation adopted*
21 *by that state or local agency on or before January 1, 2010, that is*
22 *applicable to that emission source, until eight years after the date*
23 *that emission source achieved compliance with that earlier*
24 *regulation.*

25 ~~SECTION 1. Section 39002 of the Health and Safety Code is~~
26 ~~amended to read:~~

27 ~~39002. Local and regional authorities have the primary~~
28 ~~responsibility for the control of air pollution from all sources other~~
29 ~~than vehicular sources. The control of vehicular sources, except~~
30 ~~as otherwise provided in this division, shall be the responsibility~~
31 ~~of the State Air Resources Board. Except as otherwise provided~~
32 ~~in this division, including, but not limited to, Sections 41809,~~
33 ~~41810, and 41904, local and regional authorities may establish~~
34 ~~stricter standards than those set by law or by the state board for~~
35 ~~nonvehicular sources. However, the state board shall, after holding~~
36 ~~public hearings as required in this division, undertake control~~
37 ~~activities in any area wherein it determines that the local or regional~~

- 1 authority has failed to meet the responsibilities given to it by this
- 2 division or by any other provision of law.

O

ASSEMBLY BILL

No. 1527

Introduced by Assembly Member Lieu

February 27, 2009

An act to add Section 43024 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1527, as introduced, Lieu. Motor vehicle emission reduction projects.

Existing law creates the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement Emission Reduction Program, which provide state funds to reduce emissions from motor vehicles, as provided.

This bill would allow a motor vehicle emission reduction project to be funded from multiple air quality programs, including the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement Emission Reduction Program.

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 43024 is added to the Health and Safety
- 2 Code, to read:
- 3 43024. A motor vehicle emission reduction project may be
- 4 funded from multiple programs pursuant to this division, including
- 5 the Carl Moyer Memorial Air Quality Standards Attainment
- 6 Program (Chapter 9 (commencing with Section 44275)) and the

- 1 Goods Movement Emission Reduction Program (Chapter 3.2
- 2 (commencing with Section 39625) of Part 2), if the project meets
- 3 the requirements of those programs described in this division.

O

Introduced by Senator BenoitFebruary 23, 2009

An act to amend Section 44017.4 of the Health and Safety Code, and to amend Section 4750.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 232, as introduced, Benoit. Vehicles: specially constructed vehicles.

Existing law establishes a registration amnesty program for specially constructed vehicles, as defined, that have been previously registered or classified incorrectly and requires that a specially constructed vehicle, upon registration with the Department of Motor Vehicles, be inspected by stations authorized to perform referee functions, for the purposes of determining the engine model-year used in the vehicle or the vehicle model-year, and the emission control system application.

Existing law also requires the department to annually provide a registration to no more than the first 500 of these vehicles that meet specified criteria.

This bill would delete the first 500 vehicle limitation and instead require the department to provide registration to any specially constructed vehicle that meets the specified criteria. The bill would provide that the registered owner of a specially constructed vehicle that is currently registered or incorrectly registered may change the vehicle's registration by complying with those specified criteria.

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 44017.4 of the Health and Safety Code
2 is amended to read:

3 44017.4. (a) Upon *initial* registration with the Department of
4 Motor Vehicles, a passenger vehicle or pickup truck that is a
5 specially constructed vehicle, as defined in Section 580 of the
6 Vehicle Code, shall be inspected by stations authorized to perform
7 referee functions. This inspection shall be for the purposes of
8 determining the engine model-year used in the vehicle or the
9 vehicle model-year, and the emission control system application.
10 The owner shall have the option to choose whether the inspection
11 is based on the engine model-year used in the vehicle or the vehicle
12 model-year.

13 (1) In determining the engine model-year, the referee shall
14 compare the engine to engines of the era that the engine most
15 closely resembles. The referee shall assign the 1960 model-year
16 to the engine in any specially constructed vehicle that does not
17 sufficiently resemble a previously manufactured engine. The
18 referee shall require only those emission control systems that are
19 applicable to the established engine model-year and that the engine
20 reasonably accommodates in its present form.

21 (2) In determining the vehicle model-year, the referee shall
22 compare the vehicle to vehicles of the era that the vehicle most
23 closely resembles. The referee shall assign the 1960 model-year
24 to any specially constructed vehicle that does not sufficiently
25 resemble a previously manufactured vehicle. The referee shall
26 require only those emission control systems that are applicable to
27 the established model-year and that the vehicle reasonably
28 accommodates in its present form.

29 (b) Upon the completion of the inspection, the referee shall affix
30 a tamper-resistant label to the vehicle and issue a certificate that
31 establishes the engine model-year or the vehicle model-year, and
32 the emission control system application.

33 (c) (1) The Department of Motor Vehicles shall ~~annually~~
34 provide a registration to ~~no more than the first 500 vehicles that~~
35 ~~meet any vehicle that meets~~ the criteria described in subdivision
36 (a) that ~~are~~ *is* presented to that department for registration pursuant
37 to this section. ~~The 500-vehicle annual limitation does not apply~~

1 to the renewal of registration of a vehicle registered pursuant to
2 this section.

3 (d) *The registered owner of a specially constructed vehicle that*
4 *is currently registered or incorrectly registered may change the*
5 *vehicle's registration by complying with the requirements of*
6 *subdivision (a).*

7 (e) *There shall not be a limit on the number of specially*
8 *constructed vehicles that may be registered by the department*
9 *pursuant to this section.*

10 SEC. 2. Section 4750.1 of the Vehicle Code is amended to
11 read:

12 4750.1. ~~(a)~~ If the department receives an application for
13 registration of a specially constructed passenger vehicle or pickup
14 truck after it has registered 500 specially constructed vehicles
15 during that calendar year pursuant to Section 44017.4 of the Health
16 and Safety Code, and the vehicle has not been previously
17 registered, the vehicle shall be assigned the same model-year as
18 the calendar year in which the application is submitted inspected
19 and registered pursuant to Section 44017.4 of the Health and
20 Safety Code, for purposes of determining the model-year and the
21 emissions inspection requirements for the vehicle.

22 (b) If the department receives an application for registration of
23 a specially constructed passenger vehicle or pickup truck that has
24 been previously registered after it has registered 500 specially
25 constructed vehicles during that calendar year pursuant to Section
26 44017.4 of the Health and Safety Code, and the application requests
27 a model-year determination different from the model-year assigned
28 in the previous registration, the application for registration shall
29 be denied and the vehicle owner is subject to the emission control
30 and inspection requirements applicable to the model-year assigned
31 in the previous registration. For a vehicle that participated in the
32 amnesty program pursuant to Section 9565, the model-year of the
33 previous registration shall be the calendar year of the year in which
34 the vehicle owner applied for amnesty. However, a denial of an
35 application for registration issued pursuant to this subdivision does
36 not preclude the vehicle owner from applying for a different
37 model-year determination and application for registration under

- 1 ~~Section 44017.4 of the Health and Safety Code in a subsequent~~
- 2 ~~calendar year.~~

O

Introduced by Senator DuttonFebruary 25, 2009

An act to amend Section 38563 of, and to add Section 38561.5 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 295, as introduced, Dutton. 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 to evaluate the total potential costs and total potential economic and noneconomic benefits of the plan. 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, notwithstanding this provision or any other provision of law, would prohibit the state board or its staff from beginning to develop these regulations until June 1, 2009, and until the state board reevaluates the evaluation of costs discussed above. The bill would prohibit the state board from implementing those regulations until the unemployment rate in the state is below 5.8% for 3 consecutive months. The bill would

also require the state board to evaluate, and make public, the costs of those regulations.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 38561.5 is added to the Health and Safety
2 Code, to read:
3 38561.5. (a) Notwithstanding Section 38562 or any other
4 provision of law, the state board or its staff shall not begin to
5 develop the regulations described in Section 38562 until all of the
6 following occur:
7 (1) June 1, 2009, at the earliest.
8 (2) The state board has completed an additional peer-reviewed
9 study to reevaluate the evaluations made pursuant to subdivision
10 (d) of Section 38561 that takes into consideration any
11 peer-reviewed comments on the original evaluations. This
12 additional study shall include all of the following:
13 (A) Estimates of the actual costs in every year, and for every
14 sector of the economy, of the recommendations identified in the
15 scoping plan adopted pursuant to Section 38561, and shall not
16 include only annual averaged costs.
17 (B) Estimates of overall costs and savings and the
18 cost-effectiveness of the reductions identified in the scoping plan
19 adopted pursuant to Section 38561, including appropriate inclusion
20 of reductions in copollutants.
21 (C) Estimates of the timing of capital investments, annual
22 expenditures to repay those investments, and the resulting cost
23 savings.
24 (D) Sensitivity of the results to changes in key inputs, including
25 energy price forecasts and estimates of measure costs and savings.
26 (E) Impacts on small businesses.
27 (3) The Legislative Analyst has certified that the study required
28 by paragraph (2) has been completed.
29 (b) Notwithstanding Section 38562 or any other provision of
30 law, the state board shall not implement the regulations described
31 in Section 38562 until the unemployment rate in the state is below

1 5.8 percent for three consecutive months. The state board shall not
2 be required to suspend regulations implemented after the
3 unemployment rate in the state is below 5.8 percent for three
4 consecutive months, if the unemployment rate again rises to 5.8
5 percent or greater.

6 (c) The state board shall evaluate, and make public, the costs
7 of each regulation adopted pursuant to Section 38562.

8 SEC. 2. Section 38563 of the Health and Safety Code is
9 amended to read:

10 38563. ~~Nothing~~ *Except as provided in Section 38561.5, nothing*
11 *in this division restricts the state board from adopting greenhouse*
12 *gas emission limits or emission reduction measures prior to January*
13 *1, 2011, imposing those limits or measures prior to January 1,*
14 *2012, or providing early reduction credit where appropriate.*

15 SEC. 3. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety within
17 the meaning of Article IV of the Constitution and shall go into
18 immediate effect. The facts constituting the necessity are:

19 In order to ensure that the adoption of greenhouse gas emission
20 reduction regulations does not negatively impact the state's
21 economy, it is necessary that this act take effect immediately.

Introduced by Senator WrightFebruary 26, 2009

An act to amend Section 4000.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as introduced, Wright. Historic motor vehicles: preservation.

(1) Existing law establishes a motor vehicle inspection and maintenance program (smog check), administered by the Department of Consumer Affairs and the State Air Resources Board, that provides for the inspection of all motor vehicles, except those specifically exempted from the program, upon registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances.

Existing law also requires the Department of Motor Vehicles to require any motor vehicle subject to the above requirements to demonstrate compliance with the smog check requirements by submission of a valid smog check certificate of compliance or noncompliance, as appropriate, upon initial registration, and upon the transfer of ownership and registration of the motor vehicle, with certain exceptions, including, an exemption from these requirements for any motor vehicle manufactured prior to the 1976 model-year.

This bill would also exempt a motor vehicle that has historic vehicle license plates if the registered owner signs a statement under penalty of perjury that the motor vehicle will be used for specified purposes and if the registered owner owns 2 or more currently registered motor vehicles that are not registered as historic motor vehicles.

(2) To the extent that the bill would require a statement signed under penalty of perjury, the bill would create a new crime and, thus, impose a state-mandated local program.

(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 4000.1 of the Vehicle Code is amended
 2 to read:
 3 4000.1. (a) Except as otherwise provided in subdivision (b),
 4 (c), or (d) of this section, or subdivision (b) of Section 43654 of
 5 the Health and Safety Code, the department shall require upon
 6 initial registration, and upon transfer of ownership and registration,
 7 of ~~any~~ a motor vehicle subject to Part 5 (commencing with Section
 8 43000) of Division 26 of the Health and Safety Code, a valid
 9 certificate of compliance or a certificate of noncompliance, as
 10 appropriate, issued in accordance with Section 44015 of the Health
 11 and Safety Code.
 12 (b) With respect to new motor vehicles certified pursuant to
 13 Chapter 2 (commencing with Section 43100) of Part 5 of Division
 14 26 of the Health and Safety Code, the department shall accept a
 15 statement completed pursuant to subdivision (b) of Section 24007
 16 in lieu of the certificate of compliance.
 17 (c) For purposes of determining the validity of a certificate of
 18 compliance or noncompliance submitted in compliance with the
 19 requirements of this section, the definitions of new and used motor
 20 vehicle contained in Chapter 2 (commencing with Section 39010)
 21 of Part 1 of Division 26 of the Health and Safety Code shall control.
 22 (d) Subdivision (a) does not apply to a transfer of ownership
 23 and registration under any of the following circumstances:
 24 (1) The initial application for transfer is submitted within the
 25 90-day validity period of a smog certificate as specified in Section
 26 44015 of the Health and Safety Code.

1 (2) The transferor is the parent, grandparent, sibling, child,
2 grandchild, or spouse of the transferee.

3 (3) A motor vehicle registered to a sole proprietorship is
4 transferred to the proprietor as owner.

5 (4) The transfer is between companies the principal business of
6 which is leasing motor vehicles, if there is no change in the lessee
7 or operator of the motor vehicle or between the lessor and the
8 person who has been, for at least one year, the lessee's operator
9 of the motor vehicle.

10 (5) The transfer is between the lessor and lessee of the motor
11 vehicle, if there is no change in the lessee or operator of the motor
12 vehicle.

13 (6) The motor vehicle was manufactured prior to the 1976
14 model-year.

15 (7) Beginning January 1, 2005, the transfer is for a motor vehicle
16 that is four or less model-years old. The department shall impose
17 a fee of eight dollars (\$8) on the transferee of a motor vehicle that
18 is four or less model-years old. Revenues generated from the
19 imposition of that fee shall be deposited into the Vehicle Inspection
20 and Repair Fund.

21 (e) The State Air Resources Board, under Part 5 (commencing
22 with Section 43000) of Division 26 of the Health and Safety Code,
23 may exempt designated classifications of motor vehicles from
24 subdivision (a) as it deems necessary, and shall notify the
25 department of that action.

26 (f) Subdivision (a) does not apply to a motor vehicle when an
27 additional individual is added as a registered owner of the motor
28 vehicle.

29 (g) For purposes of subdivision (a), any collector motor vehicle,
30 as defined in Section 259, is exempt from those portions of the
31 test required by subdivision (f) of Section 44012 of the Health and
32 Safety Code, if the collector motor vehicle meets all of the
33 following criteria:

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

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

38 (3) The motor vehicle complies with the exhaust emissions
39 standards for that motor vehicle's class and model year as
40 prescribed by the department, and the motor vehicle passes a

1 functional inspection of the fuel cap and a visual inspection for
2 liquid fuel leaks.

3 *(h) Subdivision (a) does not apply to a transfer of ownership*
4 *and registration if all of the following conditions are met:*

5 *(1) The motor vehicle has historic vehicle license plates pursuant*
6 *to Section 5004.*

7 *(2) The registered owner of the motor vehicle signs a statement*
8 *under penalty of perjury on a form provided by the department*
9 *that the motor vehicle will be used principally for the purposes*
10 *defined in subdivision (f) of Section 5004.*

11 *(3) The registered owner of the motor vehicle owns two or more*
12 *currently registered motor vehicles that are not registered as*
13 *historic motor vehicles pursuant to Section 5004.*

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

Introduced by Senator Simitian

February 26, 2009

An act to add Section 39611 to the Health and Safety Code, relating to air resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as introduced, Simitian. Vehicle trip reduction.

Existing law creates the State Air Resources Board, with various powers and duties relative to reduction of air pollution. Existing law creates the Department of Transportation, with various powers and duties relative to transportation planning.

This bill would require the State Air Resources Board, in coordination with the Department of Transportation, to develop a program for employers employing more than 100 individuals to reduce the number of single-occupant vehicle trips, as specified.

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 39611 is added to the Health and Safety
- 2 Code, to read:
- 3 39611. The state board shall, in coordination with the
- 4 Department of Transportation, develop a program for employers
- 5 employing more than 100 individuals to do all of the following:
- 6 (a) Collect information from employers and regional
- 7 transportation agencies on existing programs designed to reduce
- 8 the number of single-occupant vehicle trips.

- 1 (b) Evaluate the effectiveness of the programs described in
- 2 subdivision (a).
- 3 (c) Make information about the programs in subdivision (a) that
- 4 are effective available to employers and the general public on an
- 5 Internet Web site.
- 6 (d) Develop additional incentives for employers to adopt
- 7 programs and practices that will help achieve a goal of reduction
- 8 from current levels of single-occupant vehicle trips by 25 percent
- 9 in 2015 and 33 percent in 2020.

Introduced by Senator LowenthalFebruary 26, 2009

An act to amend Section 76360 of the Education Code, and to add Division 19 (commencing with Section 43000) to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as introduced, Lowenthal. Vehicles: parking services and fees.

(1) Existing law regulates the amount of fees that a community college district may charge for parking and authorizes the governing board of a community college district to require payment of a parking fee at a campus in excess of established limits for the purpose of funding the construction of oncampus parking facilities if certain conditions are met.

This bill would delete these provisions and instead require that state funds not be used, directly or indirectly, to subsidize parking services, except as specified, for students, employees, or other persons on district-owned or district-leased property on and after January 1, 2011. The bill also would authorize the governing board of a community college district to exempt specified students who receive financial assistance or who rideshare or carpool from paying parking fees that exceed a specified amount.

(2) Under existing law, the State Building Construction Act, state funds may be used to fund the construction or operations of parking facilities in California. Under existing law, a city, county, or city and county is authorized to provide for the parking of motor vehicles, including the construction and operation of parking facilities, and the

acquisition of land, property, and rights of way necessary or convenient for use as public parking places.

This bill would prohibit, notwithstanding any other provision of law on and after January 1, 2011, the use of state funds to, directly or indirectly, subsidize the construction or operations of parking in California, except as specified, and for this purpose, the bill would define both the construction and operating costs of parking, the full cost of a parking space, transit intensive areas, and specify the exceptions to this requirement. A violation of the Vehicle Code is a crime.

The bill would require, on or before January 1, 2012, a city, county, or city and county to adopt and implement, or have adopted and implemented, measures from a specified menu that achieve a total score of at least 20 points, based on the points associated with that menu to ensure that a city, county, or city and county manages its parking so that the actual cost of a parking space equals its full cost, as specified. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill also would authorize a city, county, or city and county, to request the State Air Resources Board to approve and award points for other alternate measures to reduce or eliminate subsidies that fail to charge users for the full cost of a parking space, as specified. The bill also would provide that if a city, county, or city and county adopts and implements measures to achieve a total score of at least 50 points from the specified menu, the city, county, or city and county, with respect to any application for competitive loan or grant programs funded by a general obligation bond approved by the voters on or after January 1, 2010, would receive bonus points equal to 5% of the total available points.

(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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

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

3 (a) The transportation sector contributes over 40 percent of the
4 greenhouse gas emissions in the State of California; automobiles
5 and light trucks alone contribute almost 30 percent. The
6 transportation sector is the single largest contributor of greenhouse
7 gases of any sector.

8 (b) In 2006, the Legislature passed and the Governor signed
9 Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter
10 AB 32), which requires the State of California to reduce its
11 greenhouse gas emissions to 1990 levels no later than 2020.
12 According to the State Air Resources Board, in 1990 greenhouse
13 gas emissions from automobiles and light trucks were 108 million
14 metric tons, but by 2004 these emissions had increased to 135
15 million metric tons.

16 (c) Greenhouse gas emissions from automobiles and light trucks
17 can be substantially reduced by new vehicle technology and by
18 the increased use of low carbon fuel. However, even taking these
19 measures into account, it will be necessary to achieve significant
20 additional greenhouse gas reductions by reducing vehicle trips and
21 per capita vehicle miles traveled. Without those reductions,
22 California will not be able to achieve the goals of AB 32.

23 (d) In addition, automobiles and light trucks account for 50
24 percent of air pollution in California and 70 percent of the state's
25 consumption of petroleum. Reducing vehicle trips will provide
26 significant assistance to California's goals to implement the federal
27 and state Clean Air Acts and to reduce the state's dependence on
28 petroleum.

29 (e) The existence of "free" parking is a significant factor that
30 encourages vehicle trips. At employment sites, employer-paid
31 parking increases rates of driving by as much as 22 percent.
32 Conversely, employee-paid parking reduces rates of driving by
33 the same amount. On a congested street, eliminating just 10 percent
34 of vehicles results in freeflowing traffic. Because parking is
35 underpriced, it is overconsumed.

36 (f) Excessive governmental parking requirements greatly expand
37 the built footprint and increase travel distances, thereby increasing
38 per capita measures of vehicle miles traveled and reducing the

1 viability of clean transportation modes that help to achieve the
2 state's global warming targets, including walking, bicycling, and
3 public transportation.

4 (g) Parking is costly to build and maintain. Where land is valued
5 at \$1 million an acre, the land beneath a parking space would rent
6 at approximately \$1,000 a year. Building a structured parking
7 space costs between \$17,000 and \$30,000, with underground spaces
8 costing significantly more. Annual operations and maintenance
9 costs vary from \$100 and \$500 per space per year. When parking
10 is provided free to the user, these costs are hidden elsewhere in
11 the cost of doing business. Free parking at stores is paid for by all
12 customers in higher prices for goods, including those customers
13 who do not drive. Free employer parking is paid for by lower wages
14 for all workers, including those who do not drive. Free onstreet
15 parking is paid for by the entire community in the form of taxes.

16 (h) Eliminating subsidies and revealing the actual cost of parking
17 to drivers has enormous potential to reduce greenhouse gas and
18 other pollution emissions through reducing vehicle trips. In the
19 short term, changes to parking policy can reduce greenhouse gas
20 emissions more than all other strategies combined. Eliminating
21 parking subsidies can also improve social equity by lowering prices
22 for those who choose not to drive, often lower-income households.

23 SEC. 2. Section 76360 of the Education Code is amended to
24 read:

25 ~~76360. (a) (1) The governing board of a community college~~
26 ~~district may require students in attendance and employees of the~~
27 ~~district to pay a fee, in an amount, not to exceed forty dollars (\$40)~~
28 ~~per semester and twenty dollars (\$20) per intersession, to be~~
29 ~~established by the board, for parking services. The fee shall only~~
30 ~~be required of students and employees using parking services and~~
31 ~~shall not exceed the actual cost of providing parking services.~~

32 *76360. (a) Except as provided in subdivision (b), state funds*
33 *shall not be used, directly or indirectly, to subsidize parking*
34 *services for students, employees, or other persons on district-owned*
35 *or district-leased property on and after January 1, 2011. Parking*
36 *services are not subsidized if parking user fees cover land and*
37 *construction costs within no less than 15 years, and operation and*
38 *maintenance costs on an annual basis.*

39 *(b) (1) The governing board of a community college district*
40 *may exempt students who receive financial assistance pursuant to*

1 *any programs described in subdivision (g) of Section 76300 from*
2 *parking fees that exceed twenty dollars (\$20) per semester.*

3 (2) To encourage ridesharing and carpooling, ~~for the governing~~
4 ~~board of a community college district may exempt~~ a student who
5 certifies, in accordance with procedures established by the board,
6 that he or she regularly has two or more passengers commuting to
7 the community college with him or her in the vehicle parked at
8 the community college, ~~the fee shall not from parking fees that~~
9 ~~exceed thirty dollars (\$30) per semester and ten dollars (\$10) per~~
10 ~~intersession.~~

11 ~~(b) (1) The governing board may require payment of a parking~~
12 ~~fee at a campus in excess of the limits set forth in subdivision (a)~~
13 ~~for the purpose of funding the construction of on-campus parking~~
14 ~~facilities if both of the following conditions exist at the campus:~~

15 ~~(A) The full-time equivalent (FTES) per parking space on the~~
16 ~~campus exceeds the statewide average FTES per parking space on~~
17 ~~community college campuses.~~

18 ~~(B) The market price per square foot of land adjacent to the~~
19 ~~campus exceeds the statewide average market price per square~~
20 ~~foot of land adjacent to community college campuses.~~

21 ~~(2) If the governing board requires payment of a parking fee in~~
22 ~~excess of the limits set forth in subdivision (a), the fee may not~~
23 ~~exceed the actual cost of constructing a parking structure.~~

24 ~~(c) Students who receive financial assistance pursuant to any~~
25 ~~programs described in subdivision (g) of Section 76300 shall be~~
26 ~~exempt from parking fees imposed pursuant to this section that~~
27 ~~exceed twenty dollars (\$20) per semester.~~

28 ~~(d) The governing board of a community college district may~~
29 ~~also require the payment of a fee, to be established by the~~
30 ~~governing board, for the use of parking services by persons other~~
31 ~~than students and employees.~~

32 ~~(e)~~

33 ~~(c) All parking fees collected shall be deposited in the designated~~
34 ~~fund of the district in accordance with the California Community~~
35 ~~Colleges Budget and Accounting Manual, and shall be expended~~
36 ~~only for parking services or for purposes of reducing the costs to~~
37 ~~students and employees of the college of using public transportation~~
38 ~~to and from the college.~~

39 ~~(f)~~

1 (d) Fees collected for use of parking services provided for by
2 investment of student body funds under the authority of Section
3 76064 shall be deposited in a designated fund in accordance with
4 the California Community Colleges Budget and Accounting
5 Manual for repayment to the student organization.

6 ~~(g)~~
7 (e) "Parking services," as used in this section, means the
8 purchase, construction, and operation and maintenance of parking
9 facilities for vehicles and motor vehicles as defined by Sections
10 415 and 670 of the Vehicle Code.

11 SEC. 3. Division 19 (commencing with Section 43000) is added
12 to the Vehicle Code, to read:

13
14 **DIVISION 19. PARKING REQUIREMENTS**

15
16 43000. For the purposes of this division, the following terms
17 have the following meaning:

18 (a) "Full cost of a parking space" means the sum of all of the
19 following:

20 (1) Annualized land cost. For above-ground structured parking
21 within a larger building, assume a fractional land cost based upon
22 above-ground volume of the parking facility compared to other
23 occupiable space. For entirely underground parking, assume no
24 land value. To annualize the cost, divide actual or fractional land
25 cost by 10. For leased land, use the annual lease rate.

26 (2) Annualized construction cost. Include full project cost
27 divided by the useful life of the facility. If actual costs are not
28 available, use a per-space cost from a relevant parking construction
29 cost index, and assume a 40-year useful life.

30 (3) Annualized operations and maintenance costs. Include
31 lighting, landscape, irrigation, security, insurance, pavement
32 maintenance, collections, enforcement, and related costs.

33 (b) "Transit intensive area" means central business districts,
34 areas within one-half mile of a major transit stop, as defined in
35 subdivision (b) of Section 21155 of the Public Resources Code,
36 and areas within one-quarter mile of a high-quality transit corridor,
37 as defined in subdivision (b) of Section 21155 of the Public
38 Resources Code.

39 43001. (a) Notwithstanding any other provision of law, state
40 funds shall not be used, directly or indirectly, except as provided

1 in subdivision (b), to subsidize the construction or operations of
 2 parking in California on and after January 1, 2011. For the purposes
 3 of this section, the construction costs of parking include the land,
 4 design, environmental review, permitting, project management,
 5 mitigation, and actual construction costs. Operating costs include
 6 debt service, maintenance, insurance, enforcement, collections,
 7 utilities, security, and other ancillary costs necessary to the
 8 operations of the parking facility. The construction or operation
 9 of parking is not subsidized if parking user fees cover construction
 10 costs within no less than 15 years and operating costs on an annual
 11 basis.

12 (b) All of the following are exceptions to subdivision (a):

13 (1) Locations where the cost of collecting payment for parking
 14 would exceed 75 percent of total revenue collected.

15 (2) Existing parking facilities at state parks where parking
 16 demand does not exceed capacity on more than 10 percent of days.

17 (3) Existing parking facilities at state-owned or leased
 18 employment facilities that employ 25 or fewer state employees or
 19 contractors where parking demand does not exceed capacity on
 20 more than 10 percent of days during peak hours.

21 (4) Locations where existing employee collective bargaining
 22 agreements forbid payment of parking, until the time that those
 23 agreements expire.

24 (5) Locations where federal rules, prior contracts, or prior
 25 funding agreements restrict payment for parking.

26 43002. (a) On or before January 1, 2012, a city, county, or
 27 city and county shall adopt and implement, or have adopted and
 28 implemented, measures from the following menu that achieve a
 29 total score of at least 20 points, based on the points associated with
 30 each menu item:

MEASURE	POINTS
PARKING REQUIREMENTS AND ZONING	
Eliminate minimum parking requirements citywide or within the unincorporated county.	20
Reduce average minimum parking requirements for all general office, general retail, general commercial, and similar development citywide or within the unincorporated county to:	2
Less than 3 spaces per 1,000 square feet	5
	10

1	Less than 2 spaces per 1,000 square feet	
2	Less than 1 space per 1,000 square feet	
3	Eliminate minimum parking requirements for projects in transit	
4	intensive areas.	10
5	Establish maximum parking restrictions for all general office,	
6	general retail, general commercial, and similar development at or	
7	below the following:	
8	3 spaces per 1,000 square feet	10
9	2 spaces per 1,000 square feet	15
10	1 space per 1,000 square feet	20
11	Establish commercial parking maximums of 2 or fewer spaces per	
12	1,000 sq. feet citywide or within the unincorporated county.	10
13	Establish commercial parking maximums of 2 or fewer spaces per	
14	1,000 sq. feet in transit intensive areas.	5
15	Establish residential parking maximums of 1 or fewer spaces per	
16	unit in transit intensive areas.	5
17	Establish design controls requiring parking to be underground or	
18	“wrapped” in active uses on building frontages facing public	
19	streets.	2
20	Remove restrictions against residential tandem parking, including	
21	eliminating requirements that parking must be independently	
22	accessible to count toward minimum residential parking	
23	requirement, if any.	2
24	Remove restrictions against mechanized and mechanical “lift”	
25	parking, including counting mechanized spaces toward minimum	
26	requirement, if any.	2
27	Establish a shared parking ordinance and requirements for	
28	interconnection of parking in all commercial areas.	2
29	Remove or increase allowable density limits and floor area ratios	
30	(FAR), allowing infill development on existing parking lots.	10
31	PARKING AND TRANSPORTATION DEMAND	
32	MANAGEMENT	
33	Adopt an ordinance to require that any lease for a residential	
34	dwelling unit within a housing development of five or more units,	
35	if a parking space or spaces are provided in connection with the	
36	lease, include a separate unbundled charge for the parking space	
37	or spaces that reflects the full cost of the parking space or spaces	
38	but is not less than the number of parking spaces multiplied by the	
39	cost of a monthly transit pass within the city, county, or city and	5

1	county and that the lessee may opt out of the parking charge by	
2	foregoing use of the parking space or spaces.	
3	Adopt an ordinance to require that any lease for commercial space	
4	in a complex of five or more commercial tenants include a separate	
5	unbundled charge for the parking space or spaces that reflects the	
6	full cost of the parking space or spaces but is not less than the	
7	number of parking spaces multiplied by the cost of a monthly	
8	transit pass within the city, county, or city and county and that the	
9	lessee may opt out of the parking charge by foregoing use of the	
10	parking space or spaces.	5
11	Adopt an ordinance to require that any new employment contract	
12	under which the employer provides a parking space within the	
13	city, county, or city and county include a nonreimbursable charge	
14	to the employee that reflects the full cost of the parking space but	
15	is not less than the cost of a monthly transit pass within the city,	
16	county, or city and county and that the employee may opt out of	
17	by foregoing use of the parking space.	5
18	Adopt an ordinance to require employers to offer transit passes to	
19	all employees, including full time, part time, and seasonal	
20	employees, on a pretax basis and certify compliance upon	
21	application for a new or renewal business license.	2
22	PARKING MANAGEMENT	
23	Adopt an ordinance to set on-street parking meter and public	
24	parking lot and garage rates to achieve an 85% target occupancy	
25	rate during hours when adjacent businesses are open or employ	
26	demand-responsive rates that vary throughout the day to achieve	
27	an 85% target occupancy rate.	10
28	Establish a Parking Benefit District, whereby all or a portion of	
29	new public parking revenues are directed toward improvements	
30	within the district where the revenue was raised.	5
31	Establish a Residential Parking Benefit District, whereby a limited	
32	number of commuters may pay to park in an otherwise restricted	
33	Residential Parking Permit area, with the net revenue directed	
34	toward improvements within the district where the revenue was	
35	raised.	5
36	Install parking meters in areas with parking occupancy rates of	
37	greater than 85% and establish meter rates such that parking	
38	availability improves to 85% or better.	2
39	PARKING REVENUE	

1 2 3 4	Adopt an ordinance to direct at least 50% of net public parking revenues to programs that reduce parking demand, including, but not limited to, public transit, transportation demand management, or bicycle and pedestrian infrastructure and promotion.	3
5 6 7 8 9	Adopt a parking sales tax or use fee upon parkers, with at least 85% of resulting net revenue directed at programs that reduce parking demand, including, but not limited to, public transit, transportation demand management, or bicycle and pedestrian infrastructure and promotion.	5
10 11 12 13 14	Adopt a parking impact fee or property assessment on parking owners, with at least 85% of resulting net revenue directed at programs that reduce parking demand, including, but not limited to, public transit, transportation demand management, or bicycle and pedestrian infrastructure and promotion.	5

15

16 (b) Upon request by a city, county, or city and county, the State
 17 Air Resources Board may approve and award points for other
 18 alternate measures to reduce or eliminate subsidies that fail to
 19 charge users for the full cost of a parking space, if points are
 20 awarded in a manner that is roughly proportionate to the estimated
 21 reduction in vehicle trips to be achieved by the alternate measure,
 22 in comparison with the measures described in subdivision (a).

23 (c) If a city, county, or city and county adopts and implements
 24 measures to achieve a total score of at least 50 points, with respect
 25 to any application submitted by the city, county, or city and county
 26 for competitive loan or grant programs funded by a general
 27 obligation bond approved by the voters on or after January 1, 2010,
 28 the city, county, or city and county shall receive bonus points equal
 29 to 5 percent of the total available points.

30 (d) Cities, counties, and cities and counties are encouraged to
 31 address any parking spillover from new development through the
 32 use of residential parking permits or other parking management
 33 strategies and to provide residents who resided in the parking
 34 permit zone prior to adoption of the parking permit zone a parking
 35 permit for free.

36 SEC. 4. No reimbursement is required by this act pursuant to
 37 Section 6 of Article XIII B of the California Constitution for certain
 38 costs that may be incurred by a local agency or school district
 39 because, in that regard, this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty for a crime
2 or infraction, within the meaning of Section 17556 of the
3 Government Code, or changes the definition of a crime within the
4 meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 However, if the Commission on State Mandates determines that
7 this act contains other costs mandated by the state, reimbursement
8 to local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

O

Introduced by Senator DeSaulnierFebruary 27, 2009

An act to add Section 4750.2 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 811, as introduced, DeSaulnier. Vehicles: specially constructed vehicles.

Existing law, upon application for registration of a vehicle previously registered outside this state, requires the Department of Motor Vehicles to grant full faith and credit to the currently valid certificate of title describing the vehicle, the ownership thereof, and the liens thereon, issued by the state in which the vehicle was last registered. Existing law also requires the department to require upon registration of a motor vehicle, previously registered outside this state, a valid certificate of compliance, or a certificate of noncompliance, with California's emission regulations. Existing law additionally requires specially constructed vehicles, depending on various criteria, to be subject to different emission inspection and control requirements based on the engine model year, the vehicle model year, or the calendar year in which the application for vehicle registration is submitted.

This bill would require specially constructed vehicles, as defined, that were previously registered outside this state to be subject to emission control and inspection requirements applicable to the same calendar year that the vehicle was originally constructed as a specially constructed vehicle.

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 4750.2 is added to the Vehicle Code, to
2 read:
3 4750.2. Notwithstanding Section 4304 or 4750.1, if the
4 application for registration of a vehicle previously registered
5 outside this state is for a specially constructed vehicle, as defined
6 in Section 580, the vehicle is subject to emission control and
7 inspection requirements applicable to the same calendar year that
8 the vehicle was originally constructed as a specially constructed
9 vehicle, unless otherwise modified by Section 44017.4 of the
10 Health and Safety Code.

O

BAAQMD BILL DISCUSSION LIST

APRIL 2009

BILL NO.	AUTHOR	SUBJECT	POSITION	STATUS
AB 19	Ruskin	Carbon Labeling Act of 2009; voluntary carbon footprint of consumer products		Asm Nat. Resources
AB 21	B.Lowenthal	Requires reviews of methyl bromide use, including at ports		Asm. Env. Safety
AB 28	Jeffries	Prohibits air districts from restricting use of public agency natural gas engines to pump water	Oppose	4/13/09 Asm. Nat. Resources
AB 96	Ruskin	Changes to gasoline underground storage tank grant program		Asm. Approps.
AB 118	Logue	Repeals California Global Warming Solutions Act of 2006		Asm Nat. Resources
AB 137	Jeffries	Tightens Brown Act requirements for advisory committees		Asm. Loc. Govt.
AB 222	Adams	States intent to advance biofuels and green power production		
AB 231	Huffman	Climate Protection Trust Fund		4/20/09 Asm. Nat. Resources
AB 318	Emmerson	Smog check amnesty cleanup (fixing last year's bill)	Support	4/14/09 Asm. Bus. & Professions
AB 376	Nava	Voluntary greenhouse gas emissions offsets		
AB 397	Jeffries	Makes SCAQMD Board members elected positions		4/15/09 Asm. Loc.Govt.
AB 414	Galgiani	Extends Moyer eligibility to heavy-duty fleet trade down program		4/20/09 Asm. Trans.
AB 433	Ammiano	Requires new residential construction near roads with high PM levels to have ventilation system to reduce PM exposures for residents		Asm. Housing
AB 453	Garrick	Gasoline vapor recovery spot bill		4/20/09 Asm. Nat. Resources

AB 478	Chesbro	Requires ARB to consult with Integrated Waste Board in development of AB 32 rules		4/13/09 Asm. Nat. Resources
AB 499	Hill	CEQA		4/13/09 Asm. Nat. Resources
AB 658	Hayashi	Doubles potential grant amount to dry cleaners moving to cleaner technologies		4/14/09 Asm. Env. Safety
AB 670	Berryhill	Allows veterans to use HOV lanes		4/20/09 Asm. Trans.
AB 696	Hagman	Allows CEQA project applicant to resolve disputes with lead agency via an arbitrator		4/20/09 Asm. Nat. Resources
AB 782	Jeffries	Significant changes to 2008's SB 375 to make the law more business-friendly		4/20/09 Asm. Nat. Resources
AB 821	Brownley	Clean and Healthy Schools Act		Asm. Education
AB 823	Hill	Increases state buyback amount for failed smog vehicle to potentially \$2,000		4/13/09 Asm. Trans.
AB 835	Monning	Addresses VOC emissions from pesticides		4/13/09 Asm. Agri.
AB 859	Jones	Annual smog inspection of older vehicles	Support	4/13/09 Asm. Trans.
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		4/20/09 Asm. Trans.
AB 892	Furutani	Allows Prop 1B Goods Movement Emission Reduction Program funds to be reallocated when a project is no longer feasible	Support	4/13/09 Asm. Trans.
AB 922	Miller	Exempts California-made biofuel from diesel fuel tax		5/11/09 Asm. Rev. & Tax
AB 956	Skinner	States intent to require ARB to adopt regulations on pavement coating to reduce urban heat island effect		4/20/09 Asm. Trans.
AB 1016	Villines	Abolishes California Energy Commission and creates new Department of Energy		Asm. Utilities & Commerce
AB 1033	Nielsen	New requirements on state and local agencies adopting GHG regulations		Asm Nat. Resources

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		4/20/09 Asm. Nat. Resources
AB 1097	Eng	Requires state fleet to achieve 35 mpg		Asm. Business & Professions
AB 1107	Blakeslee	Spot bill on scientific peer review of CalEPA regulations		
AB 1135	Skinner	VMT data collection at time of registration	Support	4/20/09 Asm. Trans.
AB 1186	Blumenfield	Requires non-residential building lessors to separately list parking costs in the lease agreement		4/20/09 Asm. Trans.
AB 1204	Huber	Broadens last year's SB 375 CEQA exemption beyond residential and mixed-use/residential projects		4/20/09 Asm. Nat. Resources
AB 1212	Ruskin	Authorizes ARB to implement a feebate program on new vehicle sales to cut greenhouse gas emissions		Asm. Trans.
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		4/13/09 Asm. Nat. Resources
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		Asm. Utilities & Commerce
AB 1350	Blakeslee	Establishes California Sustainable Biofuels Program		Asm. Nat. Resources
AB 1373	Skinner	Requires plan to phase out use of high global warming potential refrigerants by 2020		4/20/09 Asm. Nat. Resources
AB 1395	Torrice	Requires ARB to make publicly available all proposals to change regulations and workshop information		Asm. Nat. Resources
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		4/20/09 Asm. Nat. Resources

AB 1405	De Leon	Establishes Community Benefits Fund to mitigate climate change impacts in the most impacted and economically disadvantaged communities		4/20/09 Asm. Nat. Resources
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		Asm. Trans.
AB 1502	Eng	Extends hybrid vehicle use of HOV lanes from 2011 to 2017		Asm. Trans.
AB 1507	Block	Revises environmental grant program for metal plating facilities		Asm. Env. Safety
AB 1527	Lieu	Allows a single motor vehicle emission reduction project to be funded from multiple grant programs		Asm. Trans.
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		4/20/09 Asm. Nat. Resources
ABX3 30	Garrick	Delays Phase II EVR by one year		
SB 31	Pavley	Specifies uses for fees collected by ARB on greenhouse gas emission sources		4/20/09 Sen. Env. Quality
SB 104	Oropeza	Adds nitrogen trifluoride as a greenhouse gas, and establishes process for adding other compounds		4/20/09 Sen. Env. Quality
SB 124	Oropeza	Codifies regulations limiting idling of schoolbuses		4/14/09 Sen. Trans. & Housing
SB 128	Padilla	Creates the California Climate Change Institute		Sen. Rules
SB 180	Florez	Portable classroom air quality spot bill		Sen. Env. Quality

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		Sen. Approps.
SB 225	Florez	Allows districts to create emission reduction credits from projects funded with public and private funds		4/20/09 Sen. Env. Quality
SB 232	Benoit	Would allow an unlimited number of specialty constructed vehicles to be registered annually		Sen. Trans. & Housing
SB 295	Dutton	Would prevent AB 32 implementation until the unemployment rate is below 5.8% for 3 months		4/20/09 Sen. Env. Quality
SB 351	Huff	HOV lane spot bill		Sen. Rules
SB 382	Florez	Prohibits San Joaquin Valley agricultural burning on days when residential burning is banned		4/21/09 Sen. Food & Agri.
SB 385	Wright	Exempts historic vehicles from smog check, and allows owners to self-certify that their vehicle is historic		Sen. Trans. & Housing
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		4/14/09 Sen. Trans. & Housing
SB 400	Corbett	Expands AB 118 grant funding to go to broader change of clean vehicles, and defines CA Green Vehicle		4/14/09 Sen. Trans. & Housing
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		4/15/09 Sen. Loc. Govt.
SB 412	Kehoe	Changes and extends self-generation incentive program for non-solar distributed generation		4/21/09 Sen. Energy
SB 425	Simitian	Creates a new employer-based trip reduction program		4/21/09 Sen. Trans. & Housing
SB 435	Pavley	Adds post-2000 motorcycles to smog check program	Support	4/14/09 Sen. Trans. & Housing
SB 468	Runner	Air pollution spot bill		
SB 476	Correa	Exempts from CEQA some environmental enhancement projects, and limits cumulative impact evaluation		4/27/09 Sen. Env. Quality

SB 507	Cox	Delays by one year Phase II enhanced vapor recovery for gas stations		4/27/09 Sen. Env. Quality
SB 518	Lowenthal	Reforms parking policy to reduce driving and associated emissions		4/21/09 Sen. Trans. & Housing
SB 535	Yee	Extends hybrid use of HOV lanes indefinitely		Sen. Trans. & Housing
SB 554	Hollingsworth	Prohibits air districts from restricting the installation or use of wood-burning equipment	Oppose	Sen. Env. Quality
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		Sen. Env. Quality
SB 626	Kehoe	Assigns CEC to develop and implement policies to encourage plug-in hybrids		4/21/09 Sen. Energy
SB 632	Lowenthal	Requires container ports to assess and report their infrastructure and air quality needs	Support	4/27/09 Sen. Env. Quality
SB 675	Steinberg	Clean Technology and Renewable Energy Job Training, Career Technical Education, and Dropout Prevention Act of 2009		Sen. Rules
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		Sen. Rules
SB 721	Steinberg	Creates Climate Action Team to coordinate AB 32 actions and implementation		4/20/09 Sen. Env. Quality
SB 722	Steinberg	Establishes requirements on those selling voluntary greenhouse gas emission reduction credits		Sen. Env. Quality
SB 728	Lowenthal	Imposes civil penalty for violation of parking cashout law, and allows air districts to impose additional penalties and compliance mechanisms	Support	Sen. Env. Quality
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		4/14/09 Sen. Trans. & Housing

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Bates and Members
of the Legislative Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 7, 2009

Re: REPORT ON POLL ON BOARD SIZE AND COMPOSITION

RECOMMENDED ACTION:

None; informational item.

DISCUSSION

At its last meeting, the Legislative Committee discussed the results of the initial poll of Board members on the size and composition of the District Board. The Committee then directed staff to re-poll all Board members on only two options for changing the Board's size. However, the full Board of Directors at its last meeting redirected staff to include in the poll the additional proposals made by Directors Yeager and Sperring. Staff have sent out this poll, now with four options, to all Board members. A copy of this latest poll is attached. Staff will tabulate the results and present them to the Legislative Committee for its consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No direct impact.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Board of Directors

From: Tom Bates, Legislative Committee Chair

Date: April 7, 2009

Re: Final Survey on Board Size

At its March 23rd meeting, the Legislative Committee discussed the Board's responses to the email survey on the size of the Board. Only four of the fifteen respondents preferred no changes to the status quo, although the other eleven preferred a diverse set of changes. After discussion, the Committee decided to poll again to attempt to reach some closure on the issue. The full Board at its April 1st meeting directed staff to include in this second poll the two additional proposals made by Board members in addition to the two scenarios selected by the Legislative Committee.

The Legislative Committee wanted the Board to have some background information on this issue. The statutory language governing the size of the Board dates to 1976, when the regional population was considerably smaller. It specifies that Bay Area counties with populations less than 300,000 have one seat on the Board, while counties between 300,000 and 750,000 have two seats. Counties between 750,000 and 1,000,000 have three seats, and counties over one million in population have four seats. Thus the Board has steadily expanded in numbers over time to its current size of 22. Outside the Bay Area, the other California air districts have governing boards that range in size from five members to a high of fifteen. The South Coast, for example, has thirteen Board members.

Currently, the counties of Alameda, Contra Costa, and Santa Clara have four seats, while San Francisco has three seats. San Mateo and Sonoma have two seats, while Marin, Napa, and Solano have one. Note that while Solano and Sonoma Counties are each split between the Bay Area and adjacent air basins, their seats are based on the portion of the county population within the Bay Area Air Quality Management District (Air District). The current population of the portion of Solano County in the Air District, for example, is 293, 282. When this population increases to 300,000, the Board will increase to 23 Directors. Similarly, staff anticipate that a 24th Director will likely be seated in a few years as San Mateo County adds a future third representative, and the Board will continue to grow into the future as the region's population continues to expand.

This is shown in tabular form below:

County	Population in the BAAQMD area	Number of Current Seats
Alameda	1,543,000	4
Contra Costa	1,051,674	4
Marin	257,406	1
Napa	136,704	1
Santa Clara	1,837,075	4
San Francisco	824,525	3
San Mateo	739,469	2
Solano	293,282	1 ¹
Sonoma	427,631	2
Total Board Size		22

Please indicate which of the following four options you would prefer:

Option A: No change to the language governing the size of the Board. Under this option, the Board will grow relatively quickly to 24 members.

Option B: This was labeled as Option 3 in the previous poll. Under this option, the populations at which counties add additional representatives would be changed. A second representative would be added at 350,000 (rather than 300,000). A third representative would be added at 800,000 (rather than 750,000). A fourth representative would be added at 1,200,000 (rather than 1,000,000). However, existing representatives from counties that have already exceeded the current population triggers would not be removed, but counties would not add representatives until the new triggers are reached. This would keep the Board at its current size of 22 members for perhaps another decade.

Option C: This proposal was suggested by Director Yeager. Each county would have one seat, and counties with a population over one million would have a second seat. San Francisco, Oakland, and San Jose would also each get an additional seat. This would yield a Board of 15 members, which would not increase in size for perhaps another decade.

Option D: This proposal was suggested by Director Spering. Each county with a population under 750,000 would have one seat, selected by the Board of Supervisors. Counties over 750,000 would have a second seat, selected by the City Selection Committee. This would yield a Board of 13 members, which would increase to 14 members relatively quickly.

POLL:

Please select Option A, B, C, or D.

I prefer Option A _____

I prefer Option B _____

I prefer Option C _____

I prefer Option D _____

Name: _____

¹ Please note that the final survey sent via email showed Solano County with (2) representatives, staff will clarify number of seats as (1) at the April 15, 2009, Legislative Committee 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: April 23, 2009

Re: Report of the Climate Protection Committee Meeting of April 17, 2009

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Climate Protection Committee met on Friday, April 17, 2009. The Committee received the following reports and updates:

- A) 2009 Climate Action Leadership Summit;
- B) Climate Protection Grant Program; and
- C) Joint Policy Committee Regional Agency Climate Priorities for 2009/10

Attached are the staff reports 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: April 10, 2009

Re: 2009 Climate Action Leadership Summit

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

At its meeting on March 23, 2009, staff provided the Board of Directors with details on the logistics planning and breakout session content development for the Climate Action Leadership Summit, scheduled for May 4, 2009.

DISCUSSION

Staff will provide an update on progress made related to logistics planning, breakout session content development, securing facilitators and speakers, scripting for the flow of the day, and sponsorships since the last Climate Protection Committee meeting.

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 Kishimoto and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 10, 2009

Re: Climate Protection Grant Program Update

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

On December 19, 2007, the Air District Board of Directors awarded 53 climate protection grants totaling \$3 million to local governments and non-profit organizations in all nine counties of the Bay Area. Grants were made in the areas of youth outreach, climate planning, local government capacity-building, regionalizing best practices, and fostering innovation. During the past 16 months, staff have executed contracts, administered the grant program and tracked progress of grantees.

DISCUSSION

Staff will provide an update on the status of the projects funded through the climate protection grant program. The update will include general progress grantees are making with the implementation of their projects and any completed products resulting from the grants. Attachment A provides a brief summary for each grant, with a more detailed description for those projects that are further along in meeting their project objectives.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Climate Protection Grants were funded out of the FY 2007/08 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Abby Young
Reviewed by: Henry Hilken

Attachment

ATTACHMENT A
Climate Protection Grant Program
Summary of Projects

Each grant category below begins with a few featured projects that are far enough along in their implementation to demonstrate some interesting results.

YOUTH CLIMATE OUTREACH

Earth Team Environmental Network

The Cool Schools Global Warming Campaign, and environmental leadership program has provided education and leadership training for over 10,000 students at seven middle and high schools across the Bay Area, focusing on impacted communities in Richmond, Oakland and Pittsburgh. Monthly meetings and on-campus action projects include classroom waste audits, home-based carbon reduction activities and production of videos for public access television.

Results:

- Waste audits completed in 15 East Bay schools
- Over 6 tons of greenhouse gas emissions reduced so far
- Over 2,500 youth directly impacted

Solar Living Institute

This ground-breaking green jobs training program in Richmond is moving low-income residents and youth of color into the green economy. The Solar Living Institute trains at-risk youth in the basics of solar electricity and installation. The class culminated in the installation of a 2 kilowatt solar electric system at the EcoVillage Farm Learning Center in Richmond. Through this educational opportunity, young people are trained to sit for the North American Board of Certified Energy Practitioners exam.

Results:

- 18 temporary jobs for at-risk youth
- 2 Kw solar system installed on community building

Breathe California

Implementation of a trip reduction and energy conservation program at a 3-school campus in Milpitas where idling and traffic is a significant problem. Students are trained to perform traffic studies and develop solutions to single-student car trips to and from school.

Marin Conservation Corp

Implementation of the Curb Your Carbon program in 24 Marin schools, featuring school assemblies and the cancel-a-car coupon book, encouraging students to take emission-reducing actions at home.

Sonoma Ecology Center

Development of a six session workshop series for four sixth grade classes in one middle school to get students to make energy efficiency changes in their own homes, such as installing low flow shower heads, CFLs, weatherization, making behavior changes, purchase Energy-Star products, etc.

Strategic Energy Innovations

Training Marin Conservation Corp Americore workers to conduct sustainability audits and green fairs, and to install energy efficiency technologies in their own in affordable housing properties.

TransForm

Students in three Berkeley elementary schools get Pollution Punchcards “punched” if they walk, bike, carpool or take public transportation to school, and eligible for raffle prizes. By punching cards randomly instead of regularly, students never know what day cards will be punched, and so make their new transportation habits permanent.

REGIONALIZING BEST PRACTICES

Acterra

The Green @ Home program trains volunteers to meet with neighbors in their homes, perform energy audits, install simple energy-saving devices and create home energy conservations plans. The program utilizes social marketing techniques such as lawn signs and public meetings. The program is operating in partnership with the cities of Cupertino, Menlo Park, Palo Alto, Redwood City and Sunnyvale.

Results:

- Over 150 trained volunteers
- 300 house calls completed
- New, bi-lingual training materials create for online use

City of Sebastopol / Solar Sonoma County

The successful Solar Sebastopol program has expanded to all of Sonoma County. In addition to promoting goals for bringing solar power online, the program is developing new initiatives and standardization of policies and programs to get solar in place (building design guidelines, permit fee incentives, building code requirements, etc.). Solar Sonoma County’s goal is to have 25 Megawatts of new solar capacity installed in the county by March, 2011.

Results:

- 4.7 Megawatts of new solar installed
- Over 4,400 tons of greenhouse gas emissions reduced so far

Accountable Development Coalition

Implement a green building ordinance campaign in Sonoma County, including development of a model ordinance and promoting adoption among Sonoma local governments. Ordinance will include existing buildings as well as new construction.

Sonoma County

Development and dissemination of a Utility Management Guidebook of sustainable policies, best practices, case studies and financial analysis tools to assist public agencies in Napa, Sonoma and Solano counties to implement sustainability practices in their utility (water, sewer, waste, etc.) programs. Assistance includes a workshop series and expert technical assistance provided to 60 public agencies.

Strategic Energy Innovations

Development of model processes and cost-benefit analysis for institutionalizing long-term climate protection within communities with limited technical and financial resources.

Sustainable Silicon Valley

Creation of a Guidebook on best climate protection practices from high-performing Silicon Valley companies, designed to spread best practices to small and mid-sized companies in San Mateo and Santa Clara Counties.

FOSTERING INNOVATION

Urban Releaf

At-risk youth in West Oakland's Ettie Street Watershed neighborhood are being hired and trained to plant trees and research the trees' ameliorative impacts on local air quality. The youth and Urban Releaf staff are working with researchers at UC Davis to identify the best tree selections to achieve both greenhouse gas reduction and improved localized air quality. After planting the trees, the youth maintain them, and measure and track growth rates and other factors that could impact local air quality.

Results:

- 20 part-time jobs for at-risk youth
- Over 50 youth directly impacted
- 1,200 new trees in the process of being planted

Marin County

The Marin Energy Authority was formed as a joint power authority to explore moving the County toward 100% renewable energy-powered electricity through a Community Choice Aggregation (CCA) program. Through CCA, the Authority would contract with a qualified energy service provider for the county's power resources at fixed prices in the near term. The goal is to provide a significantly higher level of renewable energy than currently offered by PG&E, ultimately moving to 100% renewable, as well as insulation from expected price increases related to fuel and other costs.

Results:

- Joint Power Authority formed to move forward with CCA proposal
- 55 public meetings held, over 1,000 people attending
- Draft RFP to select an energy service provider has been developed

City of Berkeley

Berkeley FIRST is a solar financing program that provides residential and commercial property owners an opportunity to borrow money from the City's Sustainable Energy Financing District to install solar photovoltaic electric systems and allow the cost to be repaid over 20 years through an annual special tax on their property tax bill. Thirty-eight solar installation projects, distributed throughout Berkeley, have funding committed by the City of Berkeley in the pilot phase. Phase 2 of the project will allow energy conservation and efficiency upgrades, as well as solar thermal installations, to be financed as well.

Results:

- 38 available spots to "buy in" to the pilot phase sold out on-line in nine minutes
- Project is already being replicated across California and in other states

TransForm

"Cool Neighbors" is a tiered certification system that will rate a new residential or mixed-use development based on how well it would reduce traffic compared to a typical development of similar size. Features that might be promoted through this tool include reduced parking requirements, bicycle support systems (lockers, paths, etc.), transit passes, care sharing programs, etc. The goal is for this certification program to do for low-traffic developments what LEED has done for green buildings: create a clear and effective tool that promotes and rewards good behavior by developers through clear guidelines and positive recognition.

Results:

- Market Analysis Report demonstrates significant demand for tool
- Stakeholder process has developed scope and process for tool

San Francisco Community Power

Provision of energy audits and customized energy and emission-reducing plans to homes and businesses in low-income neighborhoods in San Francisco. Project will explore the possibility of aggregating verified GHG emission reductions in these neighborhoods in order to demonstrate the potential for neighborhoods to participate in future cap and trade systems.

City of Santa Rosa

Construction of methane digesters to convert aquatic biomass from the wastewater facility, wine industry plant bi-products, and manure into methane, which is then used in place of natural gas in an on-site generator to produce electricity for the City's electric vehicles.

City of Santa Rosa

Introducing a new technology to reduce water consumption and heating in large commercial laundry facilities. Provides incentives to laundry facilities in the form of cash rebates based on level of actual energy reduced.

WaterPlanet Alliance

Monitoring, documenting and evaluating Marin County's Community Choice Aggregation program to create a training program for decision-makers to accelerate the adoption of Community Choice Aggregation in jurisdictions across the Bay Area.

Build It Green

Creation of a calculation and tracking system to quantify the greenhouse gas and environmental benefits of two green home certification programs: Build It Green's GreenPoint Rated program and the US Green Building Council's LEED for Homes in California program.

Climate Protection Campaign

Development and implementation of aggressive climate protection initiatives as part of Sonoma County's Climate Protection program, including evaluation of a Community Choice Aggregation program in Sonoma County.

ICLEI

Creation of a handbook for local governments to use to quantitatively prioritize energy management options for new building and development projects, including life-cycle cost analysis guidance.

Sustainable Earth Initiative

Development of best management tools and workshops for commercial fleet managers. Focus is on actions that reduce the number of vehicles in fleets through trip reduction and route maximization, and maximize fuel efficiency and the use of cleaner fuels.

Eco-city Builders

Implementation of a public engagement process to develop an urban village vision and strategic plan for the Lower Bottoms neighborhood in West Oakland. Information from neighborhood workshops is integrated with sustainability concepts and presented as recommendations for various City of Oakland planning documents.

CAPACITY-BUILDING

Marin General Services Authority

All Marin municipalities, Marin County, the Marin Municipal Water District and the Transportation Authority of Marin collaborated to form the Marin Climate and Energy Partnership, and then further collaborated to submit a proposal to the Air District for a Climate Protection Grant to hire a Countywide Climate Action Director. The Climate Action Director is housed in the Marin General Services Authority and leads collaborative efforts among county jurisdictions to achieve energy savings and reductions in greenhouse gas emissions.

Results:

- Draft model green building ordinance
- Agreement among jurisdictions to develop green procurement collaborative
- Collaborative funding strategy to maintain Climate Action Director position permanently

Rohnert Park

Creation of a new position of Efficiency Coordinator to fully implement, coordinate and evaluate an existing comprehensive action plan dedicated to significantly

reducing greenhouse gas emissions from city operations

Santa Clara County

Partially offset costs for two new positions: Utility Program Manager and Climate Change Coordinator.

Newark

Creation of a permanent part-time position to develop a Climate Action Plan and implement energy conservation programs.

Sunnyvale

Establishment of the City's first Environmental Sustainability Coordinator, to plan, coordinate, evaluate and track city-wide climate protection and sustainability activities.

El Cerrito

Establishment of new permanent staff capacity in the Environmental Services Division to coordinate energy conservation and climate protection projects, including setting up a financing mechanism to fund municipal energy projects.

San Mateo County

Establishment of a County-wide Energy Officer to coordinate collaborative efforts among jurisdictions in the county, such as adoption of the San Mateo County Energy Strategy and completion of greenhouse gas inventories in all San Mateo cities.

CLIMATE PROTECTION PLANNING GRANTS

Napa County Transportation and Planning Agency

A Climate Protection Circuit Rider has been hired to work with six cities and the County of Napa to develop greenhouse gas inventories and Climate Action Plans. Needs assessments for each jurisdiction will contribute to a long-term collaborative strategic planning and financing approach for achieving climate protection targets. All seven jurisdictions have been trained on completing greenhouse gas emissions inventories and are in the process of developing local Climate Action Plans.

Results:

- 7 greenhouse gas emissions inventories completed
- Multi-jurisdictional collaborative working group established
- Leveraged an additional \$50,000 from community foundation

Alameda County

Creation of a Climate Action Plan, including a review and gap analysis of county and city general plans in order to target policies and influence upcoming general plan updates.

Cities of Albany and Piedmont

Collaboration between two cities to hire one consultant to develop a model climate action plan and customize it for both jurisdictions. Over 150 members of the public have provided direct input through an online survey process.

City of Benicia

Development of a Climate Action Plan, using students and faculty from Cal Poly University to conduct much of the research and drafting of the Plan. The City's inter-departmental Green Team is receiving training in climate protection science and policy basics.

City of Berkeley

Implementation of an Environmental Management Systems approach to community development of a climate action plan called for under Measure G. An innovative approach to facilitating community-led development of a Climate Action Plan with focus on detailed selection of policies/programs and strong implementation strategy.

Contra Costa County

Development of a Climate Action Plan for County operations, including customize-able templates for cities within the County to utilize in developing their own Climate Action Plans.

City of Fremont

Integration of greenhouse gas mitigation into the General Plan. With the help of a Green Ribbon task force. City Council has approved a greenhouse gas reduction goal of 25% below a 2005 baseline by 2020, equating to a reduction of over 400,000 tons of CO₂ annually by 2020.

City of Hayward

Development of a Climate Action Plan, with extensive public outreach including public meetings, online survey, and multi-sectoral community Working Group.

Town of Hillsborough

Integration of greenhouse gas mitigation into the General Plan, including development of new policies such as green building and residential energy conservation ordinances.

City of Lafayette

Creation of different development scenarios and associated emissions impacts, and integration of greenhouse gas mitigation into Downtown Plan.

City of Menlo Park

Development of a Climate Action Plan, facilitated by the creation of an inter-departmental Climate Action Team and convening of community meetings.

City of Mountain View

Integration of climate protection into the General Plan and Housing Element update in 2009. The General Plan will include goals, policies, and implementation measures for reducing greenhouse gas emissions.

City of Oakland

Development and implementation of a community engagement process to secure strong community involvement in creating the city's first Energy and Climate Action Plan.

Redwood City

Creation of a Climate Action Plan that will be closely linked to the City's General Plan. Over 350 members of the public have participated in public workshops and community

dialogues taking place in lower-income neighborhoods, with the City providing translation and child care to maximize attendance.

City of Richmond

Integration of greenhouse gas mitigation into the General Plan, including development of an Energy and Climate Change Element. Public outreach has targeted impacted neighborhoods with the help of a mobile “Plan Van”.

City of San Carlos

Integration of greenhouse gas mitigation in the General Plan, including development of an Environmental Management Element. A Climate Action Plan linked to the General Plan will include a strong implementation strategy.

City of San Leandro

Development of a Climate Action Plan with extensive public education and outreach focused on schools and businesses.

City of San Mateo

Development of a model, replicable community education and outreach program for to facilitate implementation of the City’s Climate Action Plan. The program features a multi-faceted, interactive website.

City of San Rafael

Development of a Climate Action Plan, including creation of a Green Ribbon Committee with a wide array of local experts and stakeholders. The Plan will be incorporated into the General Plan as part of a 5 year update in 2009.

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: April 13, 2009

Re: JPC Regional Agencies Climate Priorities for 2009/10

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

At the Joint Policy Committee meeting on March 20, 2009, Bruce Riordan, JPC Climate Consultant, presented proposed Regional Agency Climate Priorities for 2009/10. The JPC memorandum was handed out at the March 23, 2009 Climate Protection Committee meeting and is attached. JPC will consider approval of the proposed priorities at the next JPC meeting on May 15, 2009.

DISCUSSION

At the Climate Protection Committee meeting on April 17, 2009, Bruce Riordan will provide the Committee with an overview of the proposed Regional Agency Climate Priorities for 2009/10 for discussion.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jean Roggenkamp

TO: Joint Policy Committee
FROM: Bruce Riordan, JPC Climate Consultant
SUBJECT: Regional Agency Climate Priorities for 2009-10
DATE: March 12, 2009

Based on your direction at the January 16th JPC meeting, we have developed two complementary proposals for your review and comment. On March 20th, we seek your approval to move forward to further develop and implement both strategies.

A. Building on core competencies and current priorities, we propose a set of 6 joint actions that the regional agencies— BAAQMD, MTC, ABAG and BCDC—will take in 2009-10 to provide climate leadership for the Bay Area. While each action will be led by one agency, successful implementation will require assistance and support from the other partners. This approach will allow the agencies to take bold actions that can only be effectively implemented at the regional level. Working together, the regional agencies will:

1. Begin developing the Sustainable Community Strategy (SB 375). (ABAG/MTC)
2. Design and adopt an Indirect Source Rule. (BAAQMD)
3. Develop and advance climate-friendly regional parking policies. (MTC)
4. Provide support for a coordinated public/private regional plan for electric vehicles. (BAAQMD/MTC)
5. Design and implement a regional solar installation/energy efficiency financing program for existing residential/commercial buildings. (ABAG)
6. Coordinate a regional/local approach to climate adaptation. (BCDC/ABAG)

This proposal is outlined in more detail on Pages 2-5.

B. To provide alignment and coordination for 25+ climate plans/initiatives (Climate Compact, Climate Prosperity Project, Climate Protection Campaign, ICLEI, Contra Costa Climate Leaders, Business Council on Climate Change, etc.) and hundreds of Bay Area climate projects, we propose *Climate Bay Area (working title)*. This coordinating group—consisting of staff from key public, private and community stakeholders—will provide a unifying “meeting place” for the region, ensure complementary action, reduce duplication, and bring resources to the common problems confronting all Bay Area climate efforts.

This proposal is being developed through JPC discussions with our key public and private partners in the region. The collaboration meets the 3 criteria set by the JPC in November 2008 for climate protection partnerships.

- Pursuing measurable results that are congruent with regional agency objectives and clearly facilitated by cross-sector cooperation
- Broadly inclusive of entities across the nine counties and from the three E’s —economy, environment and equity.
- Only likely to succeed with the resources, authorities, perspectives and core competencies of the regional agencies.

This proposal is outlined in more detail on Pages 6-7.

Regional Agency Joint Climate Agenda for 2009-10 (Proposal A)

Task	Lead	Milestones (FY 2009-10)
<p>1. Begin development of the Sustainable Communities Strategy (SB 375).</p> <p>SB 375 mandates an integrated regional land-use-and-transportation-planning approach to GHGs from automobiles and light trucks, principally by reducing vehicle miles traveled (VMT). The key tasks include setting regional GHG reduction targets for 2020 and 2035, and creating the Sustainable Communities Strategy (SCS) to reach the targets. The legislation assigns ABAG and MTC as the Bay Area lead agencies.</p> <p>The development of the SCS will build directly upon the regional agencies’ joint actions in recent years—including FOCUS, the performance-based Projections 2009, the Transportation 2035 plan, the Transportation for Livable Communities Program, and the Resolution 3434 transit expansion program. These programs have united the efforts of the four agencies to link land use and transportation by encouraging the development of a more compact land use pattern, supporting complete, livable communities in areas served by transit, and promoting conservation of the region’s most significant resource lands.</p> <p>The Joint Policy Committee has already signaled its intention to make the Sustainable Communities Strategy a key tool for climate protection. “The Bay Area’s regional agencies have clearly recognized the primacy of the climate-change challenge as a driver of public transportation and land-use policy, and we have embraced the urgency of GHG reduction. The momentum established by our policies and actions to date will carry over into our implementation of SB 375. We do not regard SB 375 as a vexatious new requirement, but rather as an instrument to assist us in continuing and accelerating the climate protection journey upon which we have already embarked. We are genuinely concerned with making real and measurable progress in reducing the impact which motor-vehicle travel has on the global warming problem. That concern will be paramount in our approach to SB 375.”</p>	<p>ABAG and MTC</p>	<p>Regional GHG target set by September 2010</p> <p>Integrated modeling system developed by June 2010.</p> <p>Regional partnership to prepare the SCS formed by December 2009.</p>

<p>2. Design and adopt an Indirect Source Rule.</p> <p>The Air District has begun work to develop an Indirect Source Rule for the Bay Area. ISRs commonly require new developments to either implement mitigation strategies to reduce vehicle trips or pay into a fund for emissions reduction. The Air District has the authority to develop an ISR based on criteria pollutants to achieve ambient air quality standards. GHG reductions would be a co-benefit.</p> <p>ISRs can employ a wide range of approaches. San Joaquin and Imperial County have adopted ISRs that include quantitative emission reduction targets and offsite mitigation fees. The targets and fees are structured to encourage lower polluting development, focusing on emissions from transportation sources. South Coast AQMD is also developing an ISR; they are currently proposing qualitative targets, without mitigation fees. Sacramento AQMD is developing an ISR for construction emissions; they propose to develop an ISR for emissions from project operations in the future.</p>	BAAQMD	Indirect Source Rule adopted by the Air District in 2010.
<p>3. Develop and advance climate-friendly regional parking policies.</p> <p>MTC, which has undertaken considerable work in recent years on parking strategies, is currently working with a consultant team on “smart parking management” options for climate change. At the same time, state legislation will be introduced in early 2009 on new parking approaches to support AB 32 and SB 375. Research over the last 20 years has established parking pricing strategies as having a major influence on travel mode choice. Today, parking management is technically one of most powerful tools available to the Bay Area that could reduce transportation GHGs in the <u>near-term</u>. Parking management can also provide cities with significant revenue for local climate-friendly transportation projects. This strategy would include technical, political and outreach elements.</p>	MTC	TBD
<p>4. Provide support for a coordinated public/private regional plan for electric vehicles.</p> <p>The Air District has already provided initial help for Bay Area EV efforts, including supporting Plug In Hybrids (PHEVs). Now, significant momentum is building for EVs in the Bay Area. Local governments in San Francisco, San Jose,</p>	BAAQMD/ MTC	<p>Coordinated regional EV plan. Date: TBD</p> <p>Regional/state agreement on EV infrastructure standards. Date TBD</p>

Vacaville and Sonoma County are developing EV programs. Private entrepreneurs like Better Place are raising millions of dollars for EV infrastructure. Manufacturers like GM and Toyota are building PHEVs and other new generation vehicles. At the same time, the federal stimulus package contains significant new consumer incentives for 500,000 PHEVs.

Electric vehicles can slash GHGs/mile dramatically. PHEVs in California today can cut GHGs/mile by at least 50% over the average gasoline-powered automobile. Neighborhood Electric Vehicles (NEVs) in California have been shown to produce just 15 percent of the GHGs per mile of the average gas vehicle. And, as the Bay Area’s power mix becomes greener (as required by AB 32), the GHG savings from electric cars will grow even more.

One of the important roles that could be played by the regional agencies is to ensure that a standardized EV infrastructure is developed for the region, not a patchwork effort that confuses and discourages consumers and businesses. By working closely with state, local and private sector stakeholders, the regional agencies can lend strategic support to this and other critical EV efforts.

5. Design and implement a regional solar installation/energy efficiency financing program for existing residential and commercial buildings.

ABAG—through Energy Watch, Green Business and other programs—has been leading the regional agency effort on energy efficiency/conservation for a number of years. Now, with great new interest in residential and commercial energy/GHG reduction and the AB 32 requirements for much greater energy efficiency, ABAG and its partners will play a major role in this arena. In fact, this could be the most important regional agency strategy for addressing both AB 32’s 2020 GHG targets and the current economic/jobs crisis. There a number of entities—including the CPUC, PG&E, cities, counties and businesses—who are moving forward and are potential partners for a larger ABAG-led effort. Finally, the federal stimulus package contains funding for energy efficiency and conservation programs that will create green jobs.

The dominance of the built environment in the slow-growing Bay Area would suggest a focus on existing residential and commercial buildings. These can be

ABAG

Solar/Energy Efficiency District Program Design and Implementation Date: TBD

Coordination plan for promoting solar and energy efficiency permitting and building standards and green jobs training and placement programs Date: TBD

<p>retrofitted (windows, heaters, insulation, etc.) relatively easily and can provide immediate energy bill savings to owners and renters. Financing these improvements is often the stumbling block. While there are existing incentive programs through PG&E, larger scale financing approaches like City FIRST (Berkeley FIRST) will be required on a regional scale. In addition, retrofit triggers (home sales, major remodeling, time deadlines) need to be established, regional standards developed, and enforcement/education programs expanded. ABAG can provide the regional leadership for this work.</p>		
<p>6. Coordinate a regional/local approach to climate adaptation.</p> <p>BCDC has pioneered climate adaptation/preparation work in the Bay Area, focusing primarily on the impacts of sea level rise. Through a number of projects, it is now involved in detailed studies of climate impacts on San Francisco Bay. (One of these is participation in developing the ocean/coastal section of the state’s Climate Adaptation Strategy.) At the same time, BCDC’s work over the past 40+ years has built relationships with local governments as well as with numerous water and development entities. BCDC staff is currently sketching a possible Adaptation Assistance Program (AAP) to help local governments plan for and adapt to climate impacts.</p> <p>ABAG, as the primary regional link to local governments and the leader of the region’s disaster preparedness work, is well positioned to play a key role in coordinating climate adaptation among cities and counties. Linked with BCDC’s bay-oriented strategies, ABAG could lead the efforts to address heat waves, extreme rainfall events, disease vectors, and other impacts on public health, infrastructure and the Bay Area economy.</p> <p>Most cities and counties will not be able to address these climate issues on their own. A coordinated approach through ABAG and BCDC would be highly valued and far more cost-effective. In particular, the two regional agencies can jointly provide a much-needed link between the state’s climate adaptation planning and the Bay Area’s 110 cities and counties.</p>	<p>BCDC and ABAG</p>	<p>Coordinated Adaptation Assistance Program designed (State, regional, local) Date: TBD</p>

Climate Bay Area (Proposal B)

The Need for Regional Climate Coordination

Hundreds of Bay Area businesses, government agencies and non-profits are now actively engaged in climate protection and adaptation work. These organizations are setting targets, developing plans, conducting workshops and conferences, and calling for action. However, the next giant step—the implementation of strategies that will significantly reduce emissions and prepare our cities for climate impacts—is not occurring at the scale and speed required by our changing climate. For this to happen, we need stronger regional collaboration focused on the following problems and opportunities:

1. There are now 25+ separate plans—created by business organizations and governments—trying to direct Bay Area climate action, and more are on the way. By engaging in so many parallel public and private pursuits we are (a) risking a loss of focus on the strategies that will really “move the needle,” and (b) blunting our chances for a unified Bay Area advocacy agenda in Sacramento and D.C. A more aligned and complementary approach will greatly increase the number of successful outcomes throughout the region.
2. While local governments and businesses are ready and willing to take action, most of them do not have sufficient resources—funding and/or staff—to implement the high impact strategies in their climate plans. In a recent survey of local governments conducted by the Public Policy Institute of California (PPIC), resource constraints were listed as the #1 barrier to action. These problems will generally increase during the next few years of the financial meltdown. Financing mechanisms and systems to pool limited resources are both lacking.
3. While there is a much higher level of awareness of climate issues now in the Bay Area, there is still insufficient agreement on *how much* we have to do and *how fast*. At an even more basic level, we don’t know *if we are making progress or not*. This is true for both emissions reduction and adaptation.
4. A near-blizzard of climate programs, reports, workshops, conferences, etc. has made it nearly impossible for staff at governments, businesses and other organizations to stay informed, analyze opportunities and form an effective response.
5. While the push for climate action in the U.S. in the last five years has come primarily from local governments and businesses, there are a number of important strategies that can only be effectively implemented at the regional level.

Proposal

Climate Bay Area (working title), consisting of principals and staff from the key climate stakeholders, will directly address the problems and opportunities outlined above. By providing alignment for many currently separate initiatives and encouraging complementary rather than duplicative efforts, we can create a great movement for climate action. By combining public and private resources, we can accelerate bold action, make AB 32 a resounding success, and become a national model for climate management and clean tech development.

We will start with the most critical tasks for 2009-10, demonstrate near-term tangible progress, and expand our focus as needed.

Specifically, *Climate Bay Area* will oversee the following:

1. Identification of the top barriers and opportunities for Bay Area climate action.
2. Mapping of the groups (if any) who are working to address each barrier/opportunity.
3. Creation of a unified coordinated “work plan” for each barrier/opportunity.
4. Monitoring and guidance for work groups, academic experts, and consultants who will contribute to the needed work products.
5. Bringing together all reports and recommendations for regional review, distribution and action.

The following are **examples** of 2009-2010 actions that could be taken:

- Example 1: Development of options for **financing mechanisms**—carbon tax, energy assessment districts, Berkeley FIRST-type energy efficiency programs, etc.— that are essential to turning climate *plans* into significant emissions reduction.
- Example 2: Creation of a clear and compelling **Bay Area climate “story”**—vision, action goals, benefits, etc.—and a **regional public information campaign**—that will unify our many voices and create a movement for change. This would include a **“dashboard” feedback system** to track and report on regional/local progress towards key indicators.
- Example 3: Blending of various information sources into a **high-tech information system** for Bay Area climate stakeholders on state and federal legislation, regulations, funding, best practices and other topics.
- Example 4: Development, by multi-sector working groups, of **action plans** to fill current gaps in both broad strategies (e.g., Bay Area clean tech economy) and specific actions (e.g., regional Sacramento advocacy agenda). These plans would include actionable goals that would provide clear targets and focus our work on results.

Structure:

Climate Bay Area will be a multi-sector partnership including government, business, environmental and community organizations. It will be formed by joint action of the Joint Policy Committee and the Bay Area Council Economic Institute, and will be fully linked with the Bay Area Climate Change Collaborative, the Greenprint Climate Prosperity Project, the Climate Protection Campaign, ICLEI, BC3, Contra Costa Climate Leaders, Sustainable Silicon Valley, California Climate Action Network, and other key Bay Area initiatives. Initial funding and in-kind resources for *Climate Bay Area* would come from current Bay Area climate stakeholders and foundations. Long-term funding would be included in the financing mechanisms described above.

RECOMMENDATION

THE REGIONAL PLANNING PROGRAM DIRECTOR RECOMMENDS:

- A. THAT the Joint Policy Committee adopt the attached proposals (A & B), and direct the staff to further develop and implement them with our regional partners.

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: April 27, 2009

Re: Report of the Stationary Source Committee Meeting of April 20, 2009

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee met on Monday, April 20, 2009.

The Committee received the following reports and presentations:

- A) Overview of 2008/2009 Woodsmoke Reduction Program;
- B) Status Report on the Flare Minimization Plan First Annual Updates under Regulation 12, Rule 12: Flares at Petroleum Refineries; and a
- C) Status Report on the California Air Resources Board Enhanced Vapor Recovery April 1, 2009 Deadline.

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

Chairperson, John Gioia will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

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 Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 20, 2009

Re: Overview of the 2008/2009 Wood Smoke Reduction Program

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

Speciated monitoring results from previous years have shown that residential wood-burning represented the largest source of PM_{2.5} in the Bay Area, up to 30-40% during peak pollution days. In order to protect Bay Area residents from the public health impacts of fine particulate matter (PM) and to reduce harmful emissions from wood smoke pollution, on July 9, 2008 the Air District Board of Directors adopted Regulation 6, Rule 3: Wood-burning Devices. The new rule bans burning wood and solid fuels when the Air District issues a *Winter Spare the Air Alert*, limits visible emissions, prohibits burning inappropriate materials, restricts the sale and installation of non-EPA certified wood burning devices within the Air District, and requires labeling on firewood and solid fuels sold within the Air District. In order to be consistent with the rule's mandatory curtailment requirement, outdoor recreational burning, agricultural burning, and other open burning were also banned on those days. The *Winter Spare the Air* season commenced on November 1, 2008 and ended on February 28, 2009.

The primary focus of this season was to educate the public about the new rule, how they could comply and why it is important to public health. Enforcement focused on providing information to residents on how to comply with the rule, issuing warning letters to first-time violators who did not comply and developing enforcement cases for repeat violators. There are four components to the Air District's review of the wood smoke season: program effectiveness on particulate (PM_{2.5}) levels and monitoring/data analysis, forecasting *Winter Spare the Air Alerts* (a.k.a. curtailment days), public outreach, and enforcement.

DISCUSSION

Staff has been in the process of reviewing and evaluating rule implementation during the 2008/2009 wood smoke season and is considering procedural modifications to enhance the program's effectiveness for the upcoming 2009/2010 season.

For the 2008/2009 season, 11 *Winter Spare the Air Alerts* were issued and 13 days were recorded to exceed the national 24-hour ambient air quality standard. Seven of the alert days still exceeded the standard. The alerts were declared at 10 am, based on morning weather forecast data. The curtailment started at noon and continued to noon the next day, or until the Air District lifted the curtailment (e.g. in the case of multi-day events).

The *Winter Spare the Air Alert* advertising and outreach campaign utilized TV, print, billboard, radio, grassroots and in-theater spots. Educational materials were developed and distributed to the public via direct mail, public events, door-to-door canvassing and through the Air District website. The public could be notified of *Winter Spare the Air Alerts* by signing up for AirAlerts emails and/or phone calls. Additionally, the Air District offered a \$200 rebate to residents for upgrading to gas-stoves and gas-inserts. Inspectors conducted wood smoke patrols in all nine Bay Area counties in neighborhoods reported to have wood smoke impacts. Based on survey and neighborhood sampling results conducted by the Air District, household wood burning was reduced significantly throughout the entire season, not just during *Winter Spare the Air Alerts*.

Staff will present a review of the initial 2008/2009 Wood Smoke Reduction Program and discuss enhancements to the 2009/2010 season for modeling/data analysis; forecasting; public outreach; and compliance & enforcement.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Barbara Coler
Reviewed by: Kelly Wee

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 20, 2009

Re: Status Report on the Flare Minimization Plan First Annual Updates under
Regulation 12, Rule 12: Flares at Petroleum Refineries

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

In order to minimize the frequency and magnitude of flaring at petroleum refineries, the Air District Board of Directors adopted Regulation 12-12: Flares at Petroleum Refineries on July 20, 2005. The regulation recognizes that refinery flares are first and foremost a safety device and it allows refineries to develop plans to continuously minimize flaring without compromising safety. The regulation prohibits the non-emergency use of a refinery flare unless that use is consistent with an approved Flare Minimization Plan (FMP).

Each Flare Minimization Plan must include:

- Information regarding the design and operation of the facility as it relates to flaring;
- Description of the prevention measures previously taken that permanently capture current emission reductions and planned measures to further reduce flare emissions at the refinery; and
- Commitments to implement all additional feasible prevention measures expeditiously.

The Air District approved the initial FMP for each refinery on July 16, 2007 after an extensive public process. The regulation functions as a continuous improvement process by requiring the refineries to update their FMP annually to incorporate any new prevention measures developed as a result of investigations into the root causes for significant flaring events.

DISCUSSION

The first annual updates to the Flare Minimization Plans were submitted July 16, 2008. The updates included analysis of the reported cause and associated emissions for each

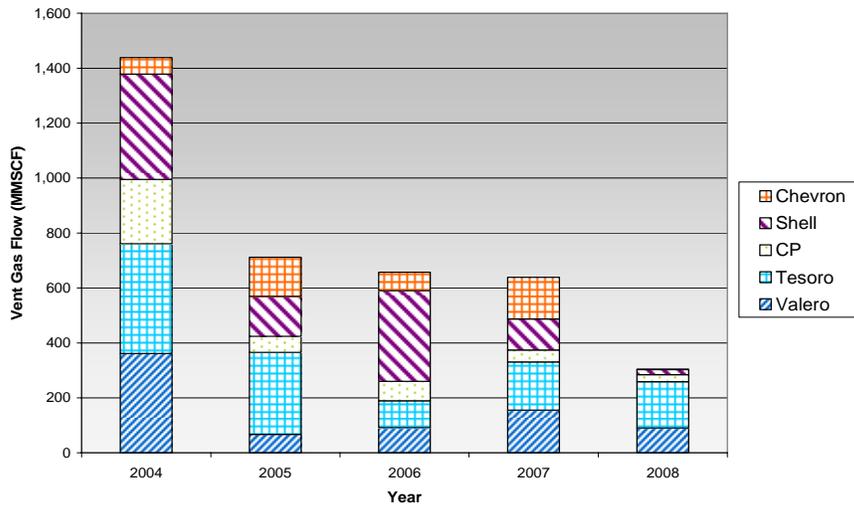
significant flaring event for the time period of June 2006 through May 2008. All of the refineries either added or modified the prevention measures in the plan to improve the plans and further reduce flaring by reducing activities that generate flare vent gases, increasing the scrubbing of vent gases to make them cleaner, and performing improved fuel gas balance during startup and shutdowns. For example, several facilities have improved operation and design of compressors to minimize or prevent flaring; one facility plans to install a new emergency caustic scrubber to remove hydrogen sulfide prior to routing gases to a relief system; one facility has modified startup/shutdown procedures for a process unit that has reduced the amount of gases flared by 33% compared with a prior occasion.

Since adoption of the flare monitoring regulation in 2003 and the flare control regulation in 2005, routine flaring has been essentially eliminated leaving flaring from maintenance activity the main focal point for further reductions. Air pollution emissions of methane and non-methane hydrocarbon have been decreasing every year. Emissions of sulfur dioxide have also been decreasing with the exception of 2008 where two significant flaring events from the Valero and Tesoro refinery caused 138 tons and 171 tons of sulfur dioxide to be emitted, respectively. The Valero flaring event was caused by an unscheduled maintenance shutdown to address a piping problem in the Hydrocracker Unit. The Tesoro flaring event resulted from a maintenance turnaround associated with the #5 Gas Plant.

While emissions from petroleum refinery flares have been showing steady decreases since 2004 for most pollutants, the Air District does expect occasional exceptions to these trends due to the cyclic nature of maintenance activity at refineries. It is not uncommon for maintenance turnarounds to occur on 3 to 5 year intervals. This long time-frame activity makes any short-term analysis of trends difficult. However, the flare control regulation requires a refinery to conduct an analysis into the causes of significant flaring events and as a result the Valero Refinery has put into place new measures to prevent a similar flaring event in the future. Tesoro also has several prevention measures in their FMP to address the #5 Gas Plant maintenance turnaround. These prevention measures resulted in 26% lower vent gas flaring volume, 37% lower sulfur dioxide emissions and 71% lower non-methane hydrocarbon emissions from this event versus a similar event previously.

The graph below illustrates the trend for the total amount of vent gas flared for each refinery since the District required monitoring. Other factors contributing to overall reductions are increased compressor recovery capacities and better management of maintenance practices.

Figure 1: Total Volume of Vent Gas Flared at Bay Area Petroleum Refineries



Significant progress has been made in reducing the frequency and magnitude of flaring since Air District regulations were originally adopted. The flare control regulation is structured to account for the variability between each refinery, to ensure continuous improvement in identifying prevention measures specific to each refinery’s specific circumstance, and to provide an opportunity to consider public input in developing the most effective FMP. The Air District is committed to develop improvements in all aspects of the flare regulations.

The regulation provides an opportunity for public input on the FMP annual updates during a 30-day public comment period, which ran from February 2 through March 3, 2009. The Air District received one comment letter from the Public and Environmental Health Advisory Board for Contra Costa County. After careful evaluation of the information provided by each refinery and in consideration of the public comment received, the Air District required modifications to these first annual Flare Minimization Plan updates to further summarize emission information, including trend information. In the future, in order to make the plans easier for the general public to understand, executive summaries will be required for the plans next year. The first annual updates for the petroleum refinery Flare Minimization Plans were approved by the APCO on April 17, 2009.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Alex Ezersky
Reviewed by: Kelly Wee

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 15, 2009

Re: Status Report on the CARB Enhanced Vapor Recovery (EVR) April 1,
2009 Deadline

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

In the Bay Area, approximately 10 million gallons of gasoline are dispensed every day. Gasoline vapor recovery is an important air pollution control program that dates back to the first regulation adopted in the nation by the Bay Area Air Quality Management District Board of Directors in 1973. The California Air Resources Board (CARB) then followed the Air District's lead and adopted state-wide vapor recovery regulations in 1975.

In 1999, in a State Implementation Plan (SIP) settlement agreement stemming from a lawsuit against CARB and the South Coast Air Quality Management District, CARB agreed to additional emission reductions from CARB vapor recovery regulations. In 2000, CARB adopted Enhanced Vapor Recovery (EVR) requirements. In April 2005, CARB certified the first EVR Phase II nozzle for installation on gas stations. The April 1, 2009 EVR Phase II requirement combined with the In-Station Diagnostics requirement represents 1.5 Tons per day of reactive organic emissions reductions for the Bay Area.

DISCUSSION

For the past several years, the Air District has conducted extensive compliance assistance outreach to provide industry and affected public agencies with the necessary information to comply with the CARB EVR deadlines. Despite these efforts, some gas stations (approximately 10%) appear to have neither obtained the necessary air permits nor installed the necessary air pollution control equipment. The large majority, over 50% have installed the equipment in time to meet the deadline. The remaining 40% have

obtained the necessary air permits and are in the process of achieving compliance with the requirement.

The Air District is taking reasonable steps and exercising enforcement discretion to bring any non-complying gasoline dispensing facility into compliance. By working with the facilities the District seeks to develop compliance and settlement agreements (Compliance Schedules) to establish specific steps to bring the facilities into compliance without shutting down their operation.

Staff will present information on this important air pollution control program and the Air District's efforts to bring all gasoline dispensing facilities into compliance with the CARB EVR requirements.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Kelly Wee/John Marvin
Reviewed by: Kelly Wee

Attachment

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Assembly California Legislature



JERRY HILL
ASSEMBLYMEMBER, NINETEENTH DISTRICT

COMMITTEES
BUDGET
CHAIR, BUDGET SUBCOMMITTEE
NO. 1 ON HEALTH AND
HUMAN SERVICES
GOVERNMENTAL ORGANIZATION
NATURAL RESOURCES
PUBLIC SAFETY
SELECT COMMITTEE ON
RENEWABLE ENERGY

April 14, 2009

Members of the California Legislature
State Capitol
Sacramento, CA 95814

Dear Fellow Legislator:

As a former member of the California Air Resources Board (CARB) who participated in the board's review of the enhanced vapor recovery (EVR) program, I wanted to provide you with an update on the EVR requirements that went into affect on April 1, 2009.

As background, vapor recovery requirements were first established in California in 1975 because of their ability to substantially reduce smog-forming and toxic emissions from re-fueling. Gasoline vapors are primarily made of hydrocarbons, which react with other air pollutants to form ozone. The main constituent of smog, ozone can lead to asthmatic and other respiratory health problems. EVR equipment reduces consumer exposures to benzene, a constituent of gasoline and known carcinogen.

In 2000, CARB adopted revised EVR standards including the "phase II" EVR requirements that would take effect in 2005. The phase II EVR requirements were reviewed by CARB in 2005 while I was a member, and we approved moving forward to implement these critical smog-reducing requirements. Beginning in 2005, gas stations across California were subject to a **four-year implementation window** to install the EVR Phase II equipment which ended on April 1, 2009. Vapor recovery has proved to be a very effective smog control strategy, removing 347 tons of smog forming compounds from the air since the regulations were first adopted. The phase II EVR equipment has the potential to remove an additional 10 tons per day of toxic emissions statewide – the equivalent of removing over 400,000 cars from the road.

Now that the EVR Phase II deadline has passed, we have statistics on compliance across the state. I am happy to announce that based on the latest information collected by air districts, **over 90% of California gas stations have either received or applied for air district permits to install EVR equipment.** As of April 4, 2009, 9,200 of the state's 11,100 stations had received an air district EVR permit. Over 6,000 stations, 63%, have already completed installation of EVR equipment. To my knowledge, only one gas station in the state was temporarily shut down due to lack of compliance.

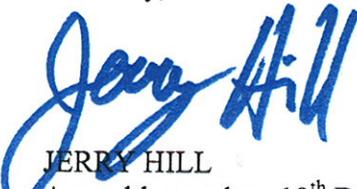


CARB and local air districts have conducted an extensive outreach effort to bring stations into compliance. The Air Resources Board and the regional air districts issued a uniform enforcement advisory last month clearly stating that stations will not be shut down if they are making a good faith effort to comply with the EVR requirements and implementation to date has followed this directive. Air districts are working to help bring stations into compliance as quickly as possible based on individual circumstances. In addition, local air districts have clearly stated that they will only levy significant penalties on recalcitrant stations, and will use their discretion to charge reduced penalties to others, or in some cases waive penalties altogether.

The most important way that the California Legislature can have a positive impact on the EVR program at this point is to approve AB 96 (Ruskin) which uses existing money from the Petroleum Underground Storage Tank Financing Account to assist smaller station owners who may still encounter problems arranging financing for Phase II EVR equipment. This will help ensure the success of the program and guarantee that California will achieve the full air quality and public health benefits of EVR as soon as possible.

Should you require additional information, please contact me at (916) 319-2019.

Sincerely,



JERRY HILL

Assemblymember, 19th District



**BAY AREA AIR QUALITY
MANAGEMENT DISTRICT**

939 ELLIS STREET
SAN FRANCISCO, CA 94109
(415) 771-6000 WWW.BAAQMD.GOV

**Gas Station April 1, 2009 Enhanced Vapor Recovery (EVR)
and In-Station Diagnostics (ISD) Outreach Events**

	DATE	LOCATION	HOST	AUDIENCE
1	Feb 14, 2007	Burlingame	9 th Annual CUPA Conference	CUPA Inspectors
2	June 19, 2007	BAAQMD	BAAQMD/ARB	GDF Majors
3	Sept 12, 2007	Contra Costa County	Contra Costa County Env Health	CUPA Inspectors
4	Sept 25, 2007	BAAQMD	BAAQMD/ARB	Local Permitting Agencies
5	Mar 4, 2008	Sunnyvale	Santa Clara County Fire Chiefs	SC County Haz/Mat Inspectors
6	April 15, 2008	Hayward	Bay Area UST Tag Meeting	Bay Area CUPA ¹ Inspectors
7	April 16, 2008	Rohnert Park	CSSARA ²	Service Station Operators
8	April 17, 2008	Walnut Creek	CA Fuel Supply Company	GDF Operators/ Vendors
9	April 23, 2008	Walnut Creek	CSSARA	Service Station Operators / Vendors
10	May 16, 2008	Novato	CSSARA	Service Station Operators
11	May 27, 2008	Antioch	City of Antioch BAAQMD/ARB	City Planners/code Enforcement/Building Inspectors
12	May 29, 2008	Oakland	Shields and Harper BAAQMD/ARB	GDF Operators/ Vendors
13	June 19, 2008	American Canyon	CSSARA	Service Station Operators/ Vendors
14	June 23, 2008	Contra Costa	Contra Costa County CUPA	Service Station Operators / Fire Prevention
15	Nov 19, 2008	San Carlos	San Carlos Fire	San Mateo County Fire Marshals
16	Jan 15, 2009	Dublin	Public Fleet Supervisors and Managers (PFSA)	Public Fleet Managers
17	Feb 11, 2009	Redwood City	San Mateo County	Building Inspectors

1. Certified Unified Program Agencies
2. California Service Station and Auto Repair Association

Spare the Air

(over) →

**Written Outreach Efforts (EVR/ISD)
Direct mail and Email distribution**

Inspection staff have conducted outreach on the EVR Phase II Deadline at all gasoline station inspections conducted during the past year. The upgrade requirements were discussed and written compliance assistance advisories were provided to all gas stations subject to the upgrade requirement.

In addition, the following table shows the compliance advisories published by the District and the California Air Resources Board (CARB) and released by either direct mail or email distribution:

ADVISORY	DATE	TITLE
BAAQMD	6/26/08	Operators of Retail Underground Gasoline Tanks – Enhanced Vapor Recovery Phase II Deadline
BAAQMD	6/26/08	Operators of Non-Retail Underground Gasoline Tanks – Enhanced Vapor Recovery Phase II Deadline
BAAQMD	8/30/04	Operators of Underground Gasoline Tanks – Enhanced Vapor Recovery Deadlines
CARB #385	3/5/09	EVR Enforcement policy for service stations that do not meet the April 1, 2009 Phase II EVR deadline
CARB #373	4/4/08	Enhanced Vapor Recovery (EVR) Phase II System Update and Penalties for April 2009 Deadline
CARB #372	1/29/08	Enhanced Vapor Recovery Phase II System Update
CARB #359	2/14/07	Enhanced Vapor Recovery April 2009 Phase II Deadline
CARB #336	4/15/05	Enhanced Vapor Recovery Implementation Update
CARB #327	9/10/04	Enhanced Vapor Recovery Implementation Update

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: April 29, 2009

Re: Report of the Budget & Finance Committee Meeting of April 29, 2009 and May 6, 2009

RECOMMENDED ACTION

The Committee recommends Board of Directors' approval to:

1. Adopt Proposed Budget for Fiscal Year Ending 2010 upon completion of public hearings; with the exception at this time, of Appendix C Fund Balances;
2. Authorize the Executive Officer/APCO to solicit bids and execute agreements for the Budgeting System Standardization not to exceed \$175,000;
3. Authorize the Executive Officer/APCO to solicit bids and execute agreement for Datacenter improvements in an amount not to exceed \$525,000 and Computer Networking improvements in an amount not to exceed \$225,000; and
4. Assign capital facilities responsibilities to the Budget and Finance Committee.

BACKGROUND

The Budget & Finance Committee met on Wednesday, April 29, 2009. The Committee received and considered the following reports and recommendations:

- A) Second Quarter Financial Report and Review of Financial Trends;
- B) Continued Discussion of Fiscal Year 2009/2010 Proposed Air District Budget and Consideration of Recommending Adoption;
- C) Consideration of Budgeting System Standardization;
- D) Consideration of Approval of Datacenter and Computer Network Funding; and a
- E) Strategic Facilities Planning Analysis.

The Committee will meet on May 6, 2009 prior to the Board of Directors meeting and may recommend Board of Directors' approval of a revised Appendix C – Fund Balances and the proposed FYE 2010 Budget upon completion of public hearings.

Attached are the staff reports presented in the April 29, 2009 and May 6, 2009 Budget and Finance Committee packets.

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

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) No impact on Fiscal Year 2008/2009 budget;
- B) The proposed consolidated budget for FY 2009/2010 is \$148,823,396;
- C) The work will be funded from the Air District FY 2008/09 Professional Services budget;
- D) The Air District FY 2008/09 Information Systems budget provides for \$700,000 for Datacenter improvements and \$300,000 for Computer Network improvements. The current request will save \$250,000 from the FY 2008/09 budgeted capital expenditures;
- E) No financial impact at this time.

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: April 21, 2009

Re: Second Quarter Financial Report and Review of Financial Trends

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION:

GENERAL FUND BUDGET: STATEMENT OF REVENUE

Comparison of Budget to Actual Revenue

- County receipts totaled \$10,311,317 (50%) of budgeted revenue.
- Permit Fee receipts were \$14,703,906 (65%) of budgeted revenue.
- Title V Permit Fees were \$1,967,699 (78%) of budgeted revenue.
- Asbestos Fees were \$884,384 (46%) of budgeted revenue.
- Toxic Inventory Fees were \$398,992 (73%) of budgeted revenue.
- Penalties and Settlements were \$1,097,484 (44%) of budgeted revenue.
- Miscellaneous Revenue receipts were \$35,119 (8%) of budgeted revenue.
- Interest Revenue was (\$1,281,747) which totaled (-90%) of budgeted revenue.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES

Comparison of Budget to Actual Expenditures

- Salaries and Benefits were \$20,254,295 (47%) of budgeted expenditures.
- Operational Services and Supplies were \$3,279,781 (20%) of budgeted expenditures.
- Capital Outlay was \$890,464 (37%) of budgeted expenditures.

INVESTMENT BALANCES

Cash and Investments in County Treasury:

General Fund	\$ 30,135,001
TFCA	\$ 52,741,277
MSIF	\$ 30,865,670
Carl Moyer	\$ 16,817,370
	<u>\$130,559,318</u>

Investments Held as:

Fixed Income Investments	37% of total investment pool
Short Term Investments	63% of total investment pool

FUND BALANCES

	<u>6/30/2007</u> <u>Audited</u>	<u>6/30/2008</u> <u>Audited</u>	<u>6/30/2009</u> <u>Projected</u>
Imprest Cash	\$ 500	\$ 500	\$ 500
Building and Facilities	1,731,690	1,731,690	1,510,315
PERS Funding	3,100,000	2,700,000	2,300,000
Radio Replacement	75,000	75,000	75,000
Climate Protection	3,000,000		
Production System	1,250,000	2,800,000	-
Capital Equipment	130,425	130,425	130,425
Contingencies	400,000	400,000	400,000
Worker's Compensation	1,000,000	1,000,000	1,000,000
Economic Uncertainties	7,709,028	8,755,437	9,000,000
TOTAL SPECIAL RESERVES	<u>\$ 18,396,643</u>	<u>\$ 17,593,052</u>	<u>\$ 14,416,240</u>
Appropriation - Production System	\$ 152,141	\$ -	\$ -
UNDESIGNATED	<u>13,996,404</u>	<u>6,358,308</u>	<u>6,358,306</u>
TOTAL FUND BALANCES	<u>\$ 32,545,188</u>	<u>\$ 23,951,360</u>	<u>\$ 20,774,546</u>

Revenue and Expenditure Trends:

Staff will review expected trends in county revenue, fees, and miscellaneous revenue sources. Staff will also review expenses, including personnel costs.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No impact on Fiscal Year 2008/2009 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Linda J. Serdahl, CPA, CFE

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: April 23, 2009

Re: Continued Discussion of Fiscal Year 2009/2010 Proposed District Budget and
Consideration to Recommend Adoption

RECOMMENDED ACTION:

Consider recommending Board of Directors adoption of the proposed FYE 2009/2010 Budget.

BACKGROUND:

As directed by Chairperson Torliatt at the March 18, 2009 regular Board of Directors' meeting, the proposed Fiscal Year 2009/2010 Budget document was reviewed by the Budget and Finance Committee at its March 30, 2009 meeting.

DISCUSSION:

Staff presented the proposed budget for Fiscal Year 2009/2010 at the March 30, 2009 Budget & Finance Committee meeting. The proposed budget is balanced with General Fund Revenues and Transfers-In from Designated Reserves totaling \$61.9 million. Proposed General Fund Expenditures are \$61.9 million. Proposed Capital Expenditures are \$2.8 million. With the inclusion of Grant and Program Distributions, the consolidated budget is balanced at \$148.8 million. The proposed budget includes no increase in FTE.

Staff was directed to review and report back to the Committee on the following items:

- Property tax projections from individual counties
- Breakdown of In-State travel

Staff will present information on these items at the April 29, 2009, Committee meeting.

Staff published, 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.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The proposed consolidated budget for FY 2009/2010 is \$148,823,396.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeff McKay

Attachment: (1)

FYE 2009/2010 Proposed Budget

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: April 23, 2009

Re: Consideration of Budgeting System Standardization

RECOMMENDED ACTION:

Consider recommending that the Board of Directors authorize the Executive Officer/APCO to solicit bids and execute agreements for Budgeting System Standardization; in an amount not to exceed \$175,000 from the Air District's FY 2008/09 Professional Services budget.

DISCUSSION

The Air District's budgeting system is a flexible, spreadsheet based system. Review of alternative, vendor supplied budgeting packages confirms that the Air District developed system is preferable. However, the system was created in an ad hoc manner over a period of twenty years, and requires standardization to be supportable without specialized knowledge.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The work will be funded from the Air District FY 2008/09 Professional Services budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 21, 2009

Re: Consideration and Recommendation of Datacenter and Computer Network
Funding

RECOMMENDED ACTION:

Consider recommending that the Board of Directors' authorize the Executive Officer/APCO to solicit bids and execute agreements for Datacenter improvements not to exceed \$525,000 and Computer Network improvements not to exceed \$225,000 as provided in the Air District's FY 2008/09 Information Systems budget.

DISCUSSION

The Air District's main datacenter and computer network are over thirty years old. Upgrades to these systems can no longer be deferred. The upgrades will substantially improve the power efficiencies of the systems. Reliability will also be improved. Most importantly, the systems will provide for basic function required throughout the Air District.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The Air District FY 2008/09 Information Systems budget provides for \$700,000 for Datacenter improvements and \$300,000 for Computer Network improvements. The current request will save \$250,000 from the FY 2008/09 budgeted capital expenditures.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 20, 2009

Re: Strategic Facilities Planning Analysis

RECOMMENDED ACTION:

Assign Capital Facilities planning responsibilities to the Budget and Finance Committee pending initiation of a Capital Facilities Committee.

BACKGROUND

The cost to maintain and operate the current Air District facility includes many items associated with the building's age. The District Office (939 Ellis Street) was constructed in phases beginning in 1968. A number of major systems (e.g., the heating and ventilation system) are at the end of their useful lifecycle and require costly repairs or replacement. In addition, the building's infrastructure is inefficient compared to current technologies.

DISCUSSION

On March 16th the Executive Committee recommended and the Board of Directors' approved the creation of an Ad Hoc Committee on Capital Facilities. There were three members who volunteered to serve on the Committee. All three members that volunteered are on the Budget and Finance Committee. Staff is recommending that Capital Facilities planning responsibilities occur through the stewardship of the Budget and Finance Committee until a separate ad hoc committee is created for Strategic Facilities Planning review and oversight.

Staff has initiated a Request for Proposal process for a Strategic Facilities Planning Analysis as a prerequisite to any decision on major capital expenditures related to the Air District headquarters.

BUDGET/FINANCIAL IMPACT:

No financial impact at this time.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Satnam Hundel

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: April 30, 2009

Re: Report of the Mobile Source Committee Meeting of April 30, 2009

RECOMMENDED ACTIONS

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

- A. Proposed Supplemental Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 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; and
 - 2) Up to \$5 million for alternative-fuel vehicle and infrastructure projects (Policies #21-25) to be reserved to match the Air District's application to the Department of Energy (DOE) under Clean Cities FY 09 Petroleum Reduction Technologies Projects for the Transportation Sector, Area Interest #4.
- B. Revisions to Three Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air Regional Fund projects.
- C. Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year 2009/2010 and an Amendment to the FY 2008/2009 Napa County Program Manager TFCA Expenditure Plan:
 - 1) Approve funding allocations for FY 2009/2010 TFCA County Program Manager listed on Table 1;
 - 2) Approve the amended allocation of \$153,586 to the FY 2008/2009 Napa County TFCA Program Manager expenditure plan;
 - 3) Amend FY 2009/2010 TFCA Program Manger Policies to allow County Program Managers the option to use Board approved Policies # 21-25 from the TFCA Regional Fund Policies and Evaluation Criteria for 2009/2010; and
 - 4) Authorize the Executive Officer/APC to enter into funding agreements with the County Program Managers for FY 2009/2010 allocations and to amend the Napa County Program Manger's FY 2008/2009 Expenditure Plan, consistent with Board-adopted TFCA Program Manager Policies.

BACKGROUND

The Mobile Source Committee will meet on Thursday, April 30, 2009. The Committee will consider and receive the following reports and recommendations:

1. Proposed Supplemental Transportation Fund for Clean Air Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010 and Proposed Allocations for Specific Project Types;
2. Revisions to Three Fiscal Year (FY) 2008/2009 Transportation Fund for Clean Air Regional Fund Projects;
3. Transportation Fund for Clean Air (TFCA) County Program Manager Expenditure Plans for Fiscal Year (FY) 2009/2010 and an Amendment to the FY 2008/2009 Napa County Program Manager TFCA Expenditure Plan;
4. Status Report of the Air District's Application for American Recovery and Reinvestment Act (ARRA) for 2009 Funding.

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. TFCA allocations do not impact the District's general fund or operating budget. TFCA County Program Manger revenues are generated from a dedicated outside funding source and passed through to counties.
2. None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.
3. None. TFCA allocations do not impact the District's general fund or operating budget. TFCA County Program Manger revenues are generated from a dedicated outside funding source and passed through to counties.
4. None.

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: April 23, 2009

Re: Consideration of Proposed Supplemental Transportation Fund for Clean Air
Regional Fund Policies and Evaluation Criteria for Fiscal Year (FY) 2009/2010
and Proposed Allocations for Specific Project Types

RECOMMENDED ACTIONS

Consider recommending Board of Directors' approval of the following:

1. The proposed FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria presented in Attachment B; and
2. Up to \$5 Million for alternative-fuel vehicle and infrastructure projects (Policies # 21-25) to be reserved to match the Air District's application to the Department of Energy (DOE) under Clean Cities FY09 Petroleum Reduction Technologies Projects for the Transportation Sector, Area Interest #4.

BACKGROUND

On April 1, 2009, the Air District's Board of Directors adopted the first set of project type-specific policies for the FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria and corresponding set-aside allocations.

DISCUSSION

Staff is recommending the addition of the following four project type-specific policies and cost-effectiveness criteria:

- Policy #21. Alternative Fuel Light-Duty Vehicles
- Policy #23. Alternative Fuel Heavy-Duty Vehicles (high mileage)
- Policy #24. Alternative Fuel Buses
- Policy #25. Alternative Fuel Infrastructure

The supplemental TFCA Regional Fund Policies and Evaluation Criteria for FY 2009/2010 are provided in Attachment A in strikeout format Attachment B presents the previously Board approved FY 2009/2010 TFCA Regional Fund Policies and Evaluation Criteria and the proposed supplemental policies.

Staff is also recommending a combined set aside allocation of up to \$5 Million for alternative-

fuel vehicle and infrastructure projects (Policies # 21-25) to be reserved to match the Air District's application to the DOE. This amount includes the \$750,000 set aside previously approved by the Air District's Board of Directors on April 1, 2009, for new alternative-fuel/hybrid, heavy-duty trucks in low-mileage. Any monies not spent on the match would be reserved for these categories through February 1, 2010, before reverting back to the TFCA Regional Fund for re-allocation.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

PROPOSED SUPPLEMENTAL TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2009/2010

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

BASIC ELIGIBILITY

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)
<u>Alternative Fuel Light-Duty Vehicles</u>	<u>21</u>	<u>\$90,000</u>
(NEW) Heavy-Duty <u>Alternative Fuel/Hybrid Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service)</u>	<u>22</u>	<u>\$90,000</u>
<u>Alternative Fuel Heavy-Duty Vehicles</u>	<u>23</u>	<u>\$90,000</u>
<u>Alternative Fuel Bus Replacements</u>	<u>24</u>	<u>\$90,000</u>
<u>Alternative Fuel Infrastructure</u>	<u>25</u>	<u>\$90,000</u>
Advanced Technology Demonstration	26	\$500,000
Shuttle/Feeder Bus Service—Pilot	27	\$125,000
Regional Ridesharing	28	\$90,000

- 3 **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.
 - b. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and electric/alternative-fuel/hybrid heavy-duty) vehicle projects, and advanced technology demonstrations, as described in HSC section 44241(b)7.

ELIGIBLE PROJECT CATEGORIES:

CLEAN AIR VEHICLE PROJECTS

21. ~~Reserved.~~ Alternative Fuel Light-Duty Vehicles:

Eligibility: For TFCA purposes, light-duty vehicles are those with a gross vehicle weight rating (GVWR) of 8,500 lbs. or lighter. Light-duty vehicle types and equipment eligible for funding includes:

- a. New hybrid-electric, electric (EV), fuel cell, and CNG/LNG vehicles certified by the 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.

- b. New electric neighborhood vehicles (NEV).
- c. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use (e.g., plug-in hybrid systems).

With the exception of NEV, vehicles must be placed into a service route that has a minimum mileage of 10,000 miles per year.

Gasoline and diesel (non-hybrid) vehicles are not eligible for TFCRA funding.

Funds are not available for non-fuel system upgrades such as transmission and exhaust systems and should not be included in the incremental cost of the project.

Maximum Award (per vehicle/retrofit) listed below:

<u>Vehicle Type</u>	<u>Annual Mileage</u>	
	<u>10,000 - 50,000 miles</u>	<u>Greater than 50,000 miles</u>
<u>NEV (exempt from mileage minimum)</u>	<u>\$500</u>	
<u>SULEV, PZEV, AT-PZEV</u>	<u>\$2000</u>	<u>\$3000</u>
<u>ZEV and retrofits</u>	<u>\$4000</u>	<u>\$5000</u>

TFCRA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the new vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

23. Reserved-Alternative Fuel Heavy-Duty Vehicles (high mileage):

Eligibility: For TFCRA purposes, light-heavy-duty vehicles (LHDV) are those with a GVWR greater than 8,500 lbs. and less than 14,000 lbs, medium-duty vehicles (MDV) are those with a GVWR greater than 14,001 lbs. and less than 33,000 lbs., and heavy-duty vehicles (HDV) are those with a GVWR greater than 33,001 lbs. LHDV, MDV and HDV types and equipment eligible for funding include:

- a. New hybrid-electric, electric, and CNG/LNG vehicles certified by the CARB.
- b. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use.

Vehicles must be placed into a service route that has a minimum mileage of 15,000 miles per year.

TFCRA funding may not be used to pay for non-fuel system upgrades such as transmission and exhaust systems.

Maximum Award (per vehicle/retrofit) listed below:

		<u>15,000 - 40,000 Miles</u>	<u>40,001 - 80,000 Miles</u>
<u>CNG/LNG</u>	<u>MDV</u>	<u>\$3,500</u>	<u>\$8,000</u>
	<u>HDV</u>	<u>\$8,000</u>	<u>\$20,000</u>
<u>Hybrid-EV and Retrofits (>15,000 Miles)</u>	<u>LHDV</u>	<u>\$10,000</u>	
	<u>MDV</u>	<u>\$25,000</u>	
	<u>HDV</u>	<u>\$30,000</u>	
<u>Fuel Cell and EV (>15,000 Miles)</u>	<u>LHDV</u>	<u>\$20,000</u>	
	<u>MDV</u>	<u>\$40,000</u>	
	<u>HDV</u>	<u>\$60,000</u>	

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

Scraping 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 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 scraping requirement. Costs related to the scraping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

24. ~~Reserved.~~**Alternative Fuel Buses:** Buses are subject to the same Eligibility, Maximum Award and Scraping requirements listed in Policy #23:

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.

25. ~~Reserved.~~**Alternative Fuel Infrastructure:** Projects that construct infrastructure to support electric, fuel-cell and natural gas vehicles that are part of a project sponsor's existing fleet or part of a current application for alternative fuel vehicles are eligible for funding.

Eligible refueling infrastructure projects include new dispensing facilities, or additional equipment or upgrades and improvements that expand access to existing alternative fuel refueling sites. This includes upgrading or modifying private fueling stations to allow public and/or shared fleet access. Funding may be used to purchase equipment or to pay for specific turnkey fueling services by alternative fuel providers.

TFCA funded refueling infrastructure projects must be available to and accessible by the public. Refueling equipment and infrastructure must be designed, installed and maintained as required by the existing recognized codes and standards and approved by the local/state authority.

TFCA funding is limited to 30% of the total project cost and may not exceed a maximum award amount of \$200,000 per project sponsor

TFCA funding may not be used to pay for fuel, operation, and maintenance costs.

REGIONAL FUND EVALUATION CRITERIA

a. For Alternative Fuel Light Duty, Alternative Fuel/~~Hybrid~~ Heavy-duty ~~Clean Air Service~~ Vehicles in Low Mileage Idling Service, Alternative Fuel Heavy-duty Vehicles, Alternative Fuel Medium and Heavy-Duty Vehicles and Alternative Fuel Bus Replacements.

50 Points – (amount requested must be equal to or less than the maximum allowable amounts listed in ~~Policy~~ policies 221-24.)

PROPOSED TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FY 2009/2010

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)
Alternative Fuel Light-Duty Vehicles	21	\$90,000
Alternative Fuel Heavy-Duty Service Vehicles (Low-mileage utility trucks in idling service)	22	\$90,000
Alternative Fuel Heavy-Duty Vehicles	23	\$90,000
Alternative Fuel Bus Replacements	24	\$90,000
Alternative Fuel Infrastructure	25	\$90,000
Advanced Technology Demonstration	26	\$500,000
Shuttle/Feeder Bus Service—Pilot	27	\$125,000
Regional Ridesharing	28	\$90,000

- 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 alternative-fuel (light, medium, and heavy-duty) vehicle projects, 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. Alternative Fuel Light-Duty Vehicles:

Eligibility: For TFCA purposes, light-duty vehicles are those with a gross vehicle weight rating (GVWR) of 8,500 lbs. or lighter. Light-duty vehicle types and equipment eligible for funding includes:

- a. New hybrid-electric, electric, fuel cell, and CNG/LNG vehicles certified by the 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.
- b. New electric neighborhood vehicles (NEV).
- c. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use (e.g., plug-in hybrid systems).

With the exception of NEV, vehicles must be placed into a service route that has a minimum mileage of 10,000 miles per year.

Gasoline and diesel (non-hybrid) vehicles are not eligible for TFCA funding.

Funds are not available for non-fuel system upgrades such as transmission and exhaust systems and should not be included in the incremental cost of the project.

Maximum Award (per vehicle/retrofit) listed below:

Vehicle Type	Annual Mileage	
	10,000 - 50,000 miles	Greater than 50,000 miles
NEV (exempt from mileage minimum)	\$500	
SULEV, PZEV, AT-PZEV	\$2000	\$3000
ZEV and retrofits	\$4000	\$5000

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the new vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

22. Alternative Fuel Heavy-Duty 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. Alternative Fuel Heavy-Duty Vehicles (high mileage):

Eligibility: For TFCA purposes, light-heavy-duty vehicles (LHDV) are those with a GVWR greater than 8,500 lbs. and less than 14,000 lbs, medium-duty vehicles (MDV) are those with a GVWR greater than 14,001 lbs. and less than 33,000 lbs., and heavy-duty vehicles (HDV) are those with a GVWR greater than 33,001 lbs. LHDV, MDV and HDV types and equipment eligible for funding include:

- a. New hybrid-electric, electric, and CNG/LNG vehicles certified by the CARB.
- b. CARB emissions compliant vehicle system retrofits that result in reduced petroleum use.

Vehicles must be placed into a service route that has a minimum mileage of 15,000 miles per year.

TFCA funding may not be used to pay for non-fuel system upgrades such as transmission and exhaust systems.

Maximum Award (per vehicle/retrofit) listed below:

		15,000 - 40,000 Miles	40,001 - 80,000 Miles
CNG/LNG	MDV	\$3,500	\$8,000
	HDV	\$8,000	\$20,000
Hybrid-EV and Retrofits (>15,000 Miles)	LHDV	\$10,000	
	MDV	\$25,000	
	HDV	\$30,000	
Fuel Cell and EV (>15,000 Miles)	LHDV	\$20,000	
	MDV	\$40,000	
	HDV	\$60,000	

TFCA funds awarded may not exceed incremental cost after all other applicable manufacturer and local/state rebates, tax credits, and cash equivalent incentives are applied. Incremental cost is the difference in cost between the purchase or lease price of the vehicle and/or retrofit and its new conventional vehicle counterpart that meets, but does not exceed, 2009 emissions standards.

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 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 requirement. Costs related to the scrapping of heavy-duty vehicles are not eligible for reimbursement with TFCA funds.

24. **Alternative Fuel Buses:** Buses are subject to the same Eligibility, Maximum Award and Scrapping requirements listed in Policy #23:

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.

25. **Alternative Fuel Infrastructure:** Projects that construct infrastructure to support electric, fuel-cell and natural gas vehicles that are part of a project sponsor's existing fleet or part of a current application for alternative fuel vehicles are eligible for funding.

Eligible refueling infrastructure projects include new dispensing facilities, or additional equipment or upgrades and improvements that expand access to existing alternative fuel refueling sites. This includes upgrading or modifying private fueling stations to allow public and/or shared fleet access. Funding may be used to purchase equipment or to pay for specific turnkey fueling services by alternative fuel providers.

TFCA funded refueling infrastructure projects must be available to and accessible by the public. Refueling equipment and infrastructure must be designed, installed and maintained as required by the existing recognized codes and standards and approved by the local/state authority.

TFCA funding is limited to 30% of the total project cost and may not exceed a maximum award amount of \$200,000 per project sponsor

TFCA funding may not be used to pay for fuel, operation, and maintenance costs.

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 Light Duty, Alternative Fuel Heavy-duty Service Vehicles in Low Mileage Idling Service, Alternative Fuel Heavy-duty Vehicles, Alternative Fuel Medium and Heavy-Duty Vehicles and Alternative Fuel Bus Replacements.

50 Points – (amount requested must be equal to or less than the maximum allowable amounts listed in policies 21-24.)

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):

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.

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: April 23, 2009

Re: Consideration of Revisions to Three Fiscal Year (FY) 2008/2009 Transportation
Fund for Clean Air Regional Fund Projects

RECOMMENDED ACTIONS

Recommend Board of Directors' approval of three revised FY 2008/2009 Transportation Fund for Clean Air Regional Fund projects listed below in Table 1.

BACKGROUND

On October 1, 2008 the Board approved the allocation of \$13,535,324 in funding from a combination of FY 2008/2009 TFCA Regional funds and Mobile Source Incentive Fund funds for fifty-three projects.

DISCUSSION

Following the Board of Directors' approval of the FY 2008/2009 TFCA Regional Fund projects, staff received new information from the project sponsors that would change the cost-effectiveness of three projects. Staff evaluated the revised projects and determined that each of these continues to meet the FY 2008/2009 Board adopted TFCA Regional Fund policies. Staff therefore recommends that the committee recommend Board of Directors' approval of funding for the revised projects listed below in Table.

Table 1: FY 2008/2009 Revised Regional Fund Projects

Project #	Project Sponsor	Project Title	\$ Previously Allocated	Revised \$ Allocated	Cost-Effectiveness	Revised Cost-Effectiveness
08R53	Yandell Truckaway, Inc.	Retrofit 20 heavy duty trucks - Level 3 devices	\$362,436 (MSIF)	\$362,436 (TFCA)	\$3,394	\$6,305
08R59	Pacific Water Trucks	Repower and retrofit 3 heavy duty vehicles	\$154,430 (TFCA)	\$115,118 (TFCA)	\$14,068	\$19,207
08R76	Solano County Transportation Authority	Safe Route to School	\$400,000 (TFCA)	\$400,000 (TFCA)	\$8,929	\$16,417

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. TFCA revenues are generated from a dedicated outside funding source. TFCA allocations do not impact the District's general fund or operating budget.

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: April 23, 2009

Re: Consideration of Transportation Fund for Clean Air (TFCA) County Program
Manager Expenditure Plans for Fiscal Year (FY) 2009/2010 and an Amendment
to the FY 2008/2009 Napa County Program Manager TFCA Expenditure Plan

RECOMMENDED ACTION

Recommend Board of Directors:

1. Approve funding allocations for FY 2009/2010 TFCA County Program Manager listed on Table 1;
2. Approve the amended allocation of \$153,586 to the FY 2008/2009 Napa County TFCA Program Manager expenditure plan;
3. Amend FY 2009/2010 TFCA Program Manger Policies to allow County Program Managers the option to use Board approved Policies # 21-25 from the TFCA Regional Fund Policies and Evaluation Criteria for 2009/2010.
4. Authorize the Executive Officer/APC to enter into funding agreements with the County Program Managers for FY 2009/2010 allocations and to amend the Napa County Program Manger's FY 2008/2009 Expenditure Plan, consistent with Board-adopted TFCA Program Manager Policies.

BACKGROUND

Pursuant to California Health and Safety Code (HSC) Sections 44241 and 44242, the Air District Board of Directors has imposed a \$4 per vehicle annual surcharge on all motor vehicles registered within the boundaries of the Air District. The revenues fund the implementation of transportation control measures and mobile source control measures. By law, The Air District applies forty percent of the revenues generated by this surcharge to the TFCA Program Manager Fund. Each county has a designated County Program Manager that submits to the Air District an annual expenditure plan of projects in its county that it recommends for funding with its share of the Fund.

On November 5, 2008, the District's Board of Directors adopted revisions to the TFCA County Program Manager Fund Policies for FY 2009/2010. At that same meeting, the Air District's Board approved the FY 2008/2009 expenditure plan for Napa County whereby a balance of \$153,586.05 remained to be allocated.

DISCUSSION:

The Air District issued the TFCA FY 2009/2010 Program Manager Expenditure Plan Application Guidance to County Program Managers in December 2008. All nine counties submitted expenditure plans by the March 31, 2009, deadline.

Table 1 below presents the estimated funding available for allocation in FY 2009/2010¹.

Table 1.: Estimated Funding Allocation for County Program Mangers in FY 2009/2010

County Program Manager	Est. Allocation in FY 2009/2010
Alameda County Congestion Management Agency	\$1,848,628.00
Contra Costa Transportation Authority	\$1,576,474.34
Transportation Authority of Marin	\$937,068.00
Napa County Transportation Planning Agency	\$218,867.33
Santa Clara Valley Transportation Agency	\$2,320,331.09
San Francisco County Transportation Authority	\$832,070.00
San Mateo City/County Association of Governments	\$1,070,722.00
Solano Transportation Authority	\$325,502.73
Sonoma County Transportation Authority	\$655,310.88

On February 9, 2009, District staff received an application for an amendment to the Napa County Program Manager FY 2008/2009 expenditure plan. Staff determined that the project complies with FY 2008/2009 policies and recommends approval of the project summarized in Table 2.

Table 2: Additional Project for FY 2008/2009 Napa County Program Manager

Project #	Project Sponsor	Project Title	TFCA funds Allocated
08NAP03	County of Napa	Duhig Road Class II Bike Lanes	\$153,586.05

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. TFCA allocations do not impact the District's general fund or operating budget. TFCA County Program Manger revenues are generated from a dedicated outside funding source and passed through to counties.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Andrea Gordon
Reviewed by: Jack M. Colbourn

¹ * Total estimated funds available for programming are based on 2008 DMV receipts, interest earned and reported funds available for reprogramming from projects that were completed under budget or canceled.

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: April 23, 2009

Re: Status Report of the Air District's Application for American Recovery
and Reinvestment Act (ARRA) for 2009 Funding

RECOMMENDED ACTION

None. Receive and file report.

BACKGROUND

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The ARRA funds investments in many programs, including health care, energy, infrastructure, education, and public safety.

DISCUSSION

A report on the status of the Air District's applications to the United States Environmental Protection Agency for Diesel Emissions Reduction Act (DERA) funding and the U.S. Department of Energy under the Clean Cities Transportation Sector Petroleum Reduction Technologies Program will be provided at the April 30, 2009 meeting of the Mobile Source Committee.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None.

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 Pamela Torliatt and
Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: April 29, 2009

Re: Overview of The American Clean Energy and Security Act of 2009,
Introduced by Waxman-Markey

RECOMMENDED ACTION:

None. Information only.

DISCUSSION

A national bill on global warming is being heard by the House of Representatives Energy and Commerce Committee, and is getting significant attention. At the May 6, 2009 Board of Directors meeting, staff will provide an overview of the American Clean Energy and Security Act of 2009, introduced on March 31, 2009 by Representatives Henry Waxman and Ed Markey.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jean Roggenkamp