



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

September 16, 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
SEPTEMBER 16, 2009
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance
Proclamation/Commendations

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.

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)

CONSENT CALENDAR (ITEMS 1 – 4)

Staff/Phone (415) 749-

1. Minutes of August 5, 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. Notice of Proposed Amendments to the Air District's Administrative Code Division I - Operating Policies and Procedures of the Board of Directors, Section 7: Advisory Council
J. Broadbent/5052
jbroadbent@baaqmd.gov

Notification is hereby given of proposed amendments to the Administrative Code Division I, Operating Policies and Procedures, of the Board of Directors, Section 7.1: Advisory Council.

COMMITTEE REPORTS AND RECOMMENDATIONS

5. Report of the **Climate Protection Committee Meeting** of September 10, 2009
CHAIR: Y. KISHIMOTO
J. Broadbent/5052
jbroadbent@baaqmd.gov
6. Report of the **Budget and Finance Committee Meeting** of September 16, 2009
CHAIR: C. DALY
J. Broadbent/5052
jbroadbent@baaqmd.gov

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

- 1. Approve the transfer of \$750,000 from the Reserve for Economic Uncertainties to the fiscal year 2009/10 budget, per direction of the Board of Directors from its meeting on August 5, 2009 following the report from the Board Ad Hoc Committee on Port Emissions); and*
- 2. Approve moving \$200,000 from the Undesignated Reserve into the FY 2009/2010 budget and authorize the Executive Officer/APCO to solicit bids and execute agreements to review the TFCA program and ensure compliance with current documentation standards.*

PRESENTATIONS

7. Update on Preparation of the Bay Area 2009 Clean Air Plan
H. Hilken/4642
hhilken@baaqmd.gov

The Board of Directors will receive an update on preparation of the Bay Area 2009 Clean Air Plan.

8. Report on a Pilot Business Incentive for Industry Compliance Schools
K. Wee/4760
kwee@baaqmd.gov

The Board of Directors will receive a report on a pilot business incentive program that will provide discounts on registration fees to equipment operators who attend Industry Compliance schools conducted by the Air District.

CLOSED SESSION

9. 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):

1. **Communities for a Better Environment, et al. v. City of Richmond (Chevron Products Company, Real Party in Interest)**, California Court of Appeals, 1st Dist., Case No. A125618
2. **Richard M. Peekema v. Bay Area AQMD**, United States District Court, N.D. Cal., Case No. C09 03283 RS

10. Conference with Legal Counsel – Potential Litigation

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

1. **Tort Claim of Cheryl Yancey against the Bay Area AQMD (Originally received 5/15/2009, amended July 15, 2009, and August 3, 2009)**

OPEN SESSION

OTHER BUSINESS

11. Report of the Executive Officer/APCO
12. Chairperson's Report
13. Time and Place of Next Meeting – 9:45 A.M. Wednesday, October 7, 2009 - 939 Ellis Street, San Francisco, CA 94109
14. Adjournment

CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET SF, CA 94109

(415) 749-5130
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

SEPTEMBER 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>(At the Call of the Chair)</i>	Wednesday	16	8:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room
Joint Policy Committee	Friday	18	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Executive Committee Meeting <i>(At the Call of the Chair)</i>	Thursday	24	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>– (Meets 4th Thursday of each Month)</i> - CANCELLED AND RESCHEDULED TO 10/5/09	Thursday	24	9:30 a.m.	4 th Floor Conf. Room

OCTOBER 2009

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Mobile Source Committee <i>– (Meets 4th Thursday of each Month)</i>	Monday	5	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	8	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	8	Following Board Legislative Cme. Meeting	4th Floor Conf. Room
Advisory Council Regular Meeting	Wednesday	14	9:00 a.m.	Board Room
Board of Directors Public Outreach Committee <i>(Meets 1st Thursday each Month)</i>	Thursday	15	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets 3rd Monday Quarterly)</i>	Monday	19	9:30 a.m.	Board Room

OCTOBER 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	21	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee – <i>(Meets 4th Thursday of each Month)</i>	Thursday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Ad Hoc Cme. on Port Emissions	Monday	26	9:30 a.m.	4 th Floor Conf. Room

NOVEMBER 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	4	9:45 a.m.	Board Room
Advisory Council Regular Meeting	Tuesday	10	9:00 a.m.	Board Room
Board of Directors Legislative Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	12	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Climate Protection Committee <i>(Meets 2nd Thursday each Month)</i>	Thursday	12	9:30 a.m.	4th Floor Conf. Room
Joint Policy Committee	Friday	13	10:00 a.m.	MTC Auditorium 101 8 th Street Oakland, CA 94607
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	18	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(At the Call of the Chair)</i> - CANCELLED	Monday	25	1:30 p.m.	4th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i>	Thursday	26	9:30 a.m.	4 th Floor Conf. Room

HL – 9/10/09 (9:25 a.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: September 9, 2009

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors Regular Meeting of August 5, 2009.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of August 5, 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
August 5, 2009

DRAFT MINUTES

CALL TO ORDER: Chairperson Pamela Torliatt called the meeting to order at 9:45 a.m.

Roll Call: Chairperson Pamela Torliatt and Directors Harold Brown, Chris Daly, Susan Garner, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Carol Klatt, Nate Miley, Mark Ross, Michael Shimansky, James Sperring and Gayle B. Uilkema

Absent: Vice Chairperson Brad Wagenknecht, Secretary Tom Bates, and Directors Dan Dunnigan, Yoriko Kishimoto, Liz Kniss, Eric Mar, Ken Yeager and Shirlee Zane

PLEDGE OF ALLEGIANCE: Chairperson Torliatt led the Pledge of Allegiance.

Public Comments: None

Boardmember Comments: Director Uilkema requested that Directors be provided with a paper recycling bin at their chair.

CONSENT CALENDAR (Items 1-5):

1. Approval of Minutes of July 1, 2009 Regular Meeting;
2. Communications;
3. District Personnel on Out-of-State Business Travel;
4. Quarterly Report of Air Resources Board Representative – Honorable Ken Yeager;
5. Quarterly Report of the Executive Office Activities.

Chairperson Torliatt announced the following amendments to be made:

- The August 5, 2009 Consent Calendar Agenda: Amend to read (Items 1-5);
- Item 1; July 1, 2009 Minutes: Page 1; Roll Call: Directors Dunnigan and Gioia should be noted as absent. Page 9; Adjournment: The Board adjourned the meeting to August 5, 2009.

Board Action: Director Sperring made a motion to approve Consent Calendar Items 1, 2, 3, 4 and 5, as amended; Director Groom seconded the motion; carried unanimously without opposition.

COMMITTEE REPORTS AND RECOMMENDATIONS:

Report 6. Stationary Source Committee Meeting
July 13, 2009
Report given by Chairperson J. Gioia

Discussion/Actions:

The Stationary Source Committee met on Monday, July 13, 2009 and approved the Minutes of the April 20, 2009 meeting.

The Committee received a status report on the following Bay Area projects and facilities:

1. Lennar Bay View Hunters Point Shipyard Parcel A' Redevelopment Project (San Francisco)
2. Pacific Steel Casting Company (Berkeley)
3. Custom Alloy Scrap Sales, Incorporated (Oakland)
4. Lehigh Southwest Cement Plant (Cupertino)
5. Russell City Energy Center (Proposed Project in Hayward)
6. Marsh Landing and Willow Pass Generating Stations (Proposed Projects in Antioch and Pittsburg)

The Committee then received an update on the CARE Program and priority communities, the District's Air Toxics NSR Program, and the Air Toxics Hot Spots Program Implementation Update, which will evaluate establishing more stringent risk reduction thresholds.

The next meeting of the Committee is scheduled for Monday, October 19, 2009 at 9:30 a.m.

Board Action: Director Gioia made a motion to approve the report of the Stationary Source Committee; Director Uilkema seconded the motion; carried unanimously without opposition.

Report 7. Ad Hoc Committee on Port Emissions Meeting
July 16, 2009
Report given by Chairperson N. Miley

Discussion/Actions:

The Ad Hoc Committee on Port Emissions met on Thursday, July 16, 2009 and approved the minutes of March 12, 2009.

The Committee received an update on the Emission Reduction Strategy for the Port of Oakland and discussed development of an agreement for near term actions to reduce emissions. The Committee also discussed efforts that are being considered for inclusion in the agreement including a Marine Highway Project, the Port's plan for shorepower and joint efforts on regulatory enforcement. Public comments were received which focused on the Port's stakeholder process, the Port's emissions inventory, and future transportation planning for freight movement at the Port.

The Committee then received a presentation requesting consideration of funding for near term emission reduction projects at the Port of Oakland. Staff presented a number of projects currently being discussed with the Port, with the focus being a recommendation for a Marine Highway Project. This project is designed to move containers between the Ports of Oakland, Stockton and Sacramento on clean barges rather than trucks resulting in large emission reductions along Bay Area highways and in the West Oakland community. The Port has applied for a grant for the project and the San Joaquin Air District has also allocated \$750,000 in funding contingent upon action from the District.

Based on staff's recommendation, the Committee recommends Board of Directors approval of:

1. An allocation of \$750,000 in funding to support emissions reductions projects at the Port of Oakland seaport; and
2. Referral to and recommendation by the Budget and Finance Committee to transfer \$750,000 in funding from reserves to the fiscal year 2009/10 budget.

The Committee then received an update on the District's diesel emissions reduction enforcement strategy, which focuses on highly impacted communities, and especially West Oakland. Staff has begun specialized training to enforce CARB mobile source regulations for cargo handling equipment, trucks, ships and containers and has engaged in a collaborative effort with the Port of Oakland on program implementation at their terminals. A complete Draft of the Mobile Source Compliance Plan will be presented to the Board of Directors in fall of this year.

The next meeting of the Committee is at the call of the Chair.

Board Action: Director Miley made a motion to approve the report and recommendations of the Ad Hoc Committee on Port Emissions; Director Spring seconded the motion; unanimously approved without objection.

Report 8. Executive Committee Meeting
July 29, 2009
Report given by Chairperson P. Torliatt

Discussion/Actions:

The Executive Committee met on Wednesday, July 29, 2009 and approved the minutes of June 29, 2009.

The Committee received the Hearing Board Quarterly Report for the period April 2009 through June 2009. The Committee then received an update on the Production System and was presented with completed deliverables and future scheduled deliverables for the system.

The Committee then received an overview of the Air District's strategic facility planning process, the RFP process, and the resultant selection and contract award to HOK, Inc. The project schedule includes an initial kickoff meeting with the Facilities Working Group and Executive Management staff, a series of outreach, interviews and an employee survey, as well as regional agencies outreach.

The Committee then received an update on the Air District Foundation. Formation of the Foundation's 501(c)3 incorporation has been completed, and receipt of a settlement in the amount of \$250,000 will be deposited into the Foundation's account. An overview of the Foundation's goals and objectives, funding sources and mechanisms was provided, and staff will update the Committee as categories of projects for funding are determined.

The Committee then considered a Board of Directors' policy relative to appointments to the California Air Resources Board (CARB) of Directors and discussed various elements of applicability, a call for interested Board Members, format for endorsement, and support of other candidates. The Committee unanimously supported the Chair issuing a call for Board members to express their interest in being appointed to the CARB Board of Directors within a designated timeframe and for key information to be provided relevant to his/her appointment to the CARB Board of Directors. The Committee did not

support preparation of letters of recommendation by the Board or staff, and gave direction to staff to further refine the policy and return to the next Executive Committee meeting.

The Committee deferred the update on the Indirect Source Rule (ISR) to the next Executive Committee meeting. Chair Torliatt requested the ISR presentation be placed at the beginning of the agenda for the next meeting.

The next meeting of the Committee is at the call of the Chair.

Board Action: Chairperson Torliatt made a motion to approve the report of the Executive Committee; Director Uilkema seconded the motion; unanimously approved without objection.

PUBLIC HEARING:

9. Public Hearing to Consider Adoption of proposed amendments to Regulation 8, Rule 32: Wood Products Coatings; Manual of Procedures, Volume 1, Number 6: Emissions Averaging Procedure; and Adoption of a CEQA Negative Declaration – Staff Presentation by Rule Development Manager Dan Belik

Overview:

Mr. Belik provided background on the 2005 Ozone Strategy Control Measure SS-5, discussed pertinent wood products and manufacturing facilities, VOC content limits, and stated that the amendment to Regulation 8, Rule 32 applies to three classes of wood products manufacturing facilities: 1) general wood products, 2) wood furniture, custom cabinets, and custom architectural millwork, and 3) custom furniture. He discussed proposed amendments, exemptions for refinishing and some wood products and specialty finishes, and stated that the averaging procedure is being updated. He discussed emissions reductions and costs, new equipment and adjustments to the manufacturing process and said the Socioeconomic Impact Analysis found no significant impacts.

He then discussed the Rule development process, reviewed public comments from CARB, NPCA and Lyondell Chemical and said the final proposal was published on July 2, 2009.

Recommendation:

By Resolution:

- Adopt proposed amendments to Regulation 8, Rule 32: Wood Product Coatings;
- Adopt proposed amendments to Manual of Procedures, Volume 1, Number 6: Emissions Averaging Procedure; and
- Adopt a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) for this rule-making activity.

Director/Staff Comments:

Directors discussed the intent of the Rule and thresholds, exemptions, CARB regulations, formaldehyde standards, and the Air District's obligation to enforce toxic air contaminants. Mr. Broadbent noted that proposed VOC limits go into effect in July 2010 and similar standards are currently in effect in other air districts. Staff will work with manufacturers on the 2012 requirement to analyze and estimate formaldehyde emissions. He added that the District will also develop a compliance advisory, notifying approximately 250 facilities of the proposed requirements.

Directors questioned cost effectiveness of the industry's approximate 1.48 tons per day of emissions which will transition into a 30% reduction. Mr. Broadbent explained that the District needs to make progress in achieving the federal and state ambient air quality standards. The average cost effectiveness is about \$15,000 per ton and is within the range. In response to the percentages of businesses switching to water-based products, profitability and coating operation locations, Mr. Belik commented that there are exempt solvents and other technologies to reach VOC levels.

Discussion by Directors followed regarding reduction of VOC limits by 50% for high solid stains and concerns that such reductions may trigger higher emissions levels. Mr. Belik said there are many types of VOCs in organic compounds; however, emission levels will be reduced. Mr. Broadbent reiterated that the proposed limits, which will become effective July 1, 2010, are based on limits already in effect in the South Coast and San Joaquin air districts.

The term, "outdoor" speakers, was discussed and Directors requested it be removed from any reference in the rule. Mr. Belik provided the historical background on speakers and agreed to remove the term in the final rule. Directors then discussed the comment and response process and confirmed that CARB provided a comment letter but does not typically provide a formal response.

Chairperson Torliatt opened the public hearing at 10:29 a.m.

Public Comments:

Toomas Baunis, President
Chemical Coating Supply, Inc.
3886 Industrial Way
Benicia, CA 94510

Requested removing all formaldehyde emitting products from the general wood finishing products category; restrict the use of formaldehyde in the custom wood finishing category by establishing that no less than 5500 gallons of material can produce 32 pounds of formaldehyde; and remove reactive technology from the regulation.

Madelyn Harding
Sherwin-Williams Company
101 W. Prospect Avenue
Cleveland, OH 44115

Concerns: 1) Water tends to have a problem disrupting the grain; she asked that the low-Solids stain, toner and wash coat category be increased to 240 g/l or delay implementation for an extra year; and 2) potential formaldehyde emissions from coatings is a result of a chemical reaction, which is temperature and humidity dependent; she asked staff to convene meetings with coating and resin manufacturers to arrive at a consistent policy.

David Darling
Nat'l Paint and Coatings Assoc.
1500 Rhode Island Avenue, NW
Washington, DC 20005

Said emissions estimates cannot be determined, as variations occur from moisture content, humidity, temperature, application timing and where the products are actually coated. He requested deleting the formaldehyde requirement from the Rule and asked that staff work together the chemical and coating manufacturers to arrive at data for the future.

Chairperson Torliatt closed the Public Hearing at 10:38 a.m.

Committee/Staff Discussion:

Directors and staff discussed comments of speakers, staff responses and further modeling work to quantify emissions relating to formaldehyde. Director Gioia remarked that the word "outdoor" appears in the staff report and confirmed with staff that it was not contained in the Rule. Mr. Broadbent restated that California manufacturers are currently complying with limits and coatings available to

meet the 120 g/l. Over the next six months to a year staff will develop compliance advisories, will meet with companies, and conduct testing on low-VOC products.

Motion: Director Haggerty made a motion to adopt the resolution. Director Brown seconded the motion.

Directors supported amendments but remarked on lost jobs and relocation of businesses out of California, and suggested a survey be done to assess impacts. Chairperson Torliatt acknowledged impacts and asked that companies instead make use of the amendments as a marketing tool—to highlight their manufacturing of more environmentally-friendly products for the Bay Area.

Directors discussed possibly deferring the action and amending the low-solids coating level to from 120 g/l to 240 g/l. Mr. Broadbent recommended the Board adopt the proposed limits, direct staff to conduct an implementation workshop with facility representatives, develop a monitoring protocol about available coatings, and schedule an update for the Stationary Source Committee.

Board Action: Director Haggerty made a motion to adopt the Resolution approving proposed amendments to Regulation 8, Rule 32: Wood Products Coatings; Manual of Procedures, Volume 1, Number 6: Emissions Averaging Procedure, and Adopt a CEQA Negative Declaration; Director Brown seconded the motion; carried unanimously by the following vote: (14-0-8)

AYES: Brown, Daly, Garner, Gioia, Groom, Haggerty, Hosterman, Klatt, Miley, Ross, Shimansky, Spering, Uilkema and Torliatt

NOTES: None

ABSENT: Bates, Dunnigan, Kishimoto, Kniss, Mar, Wagenknecht, Yeager and Zane.

Adopted Resolution No. 2009-10; A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending District Regulation 8, Rule 32: Wood Products Coatings and District Manual of Procedures, Volume 1, Procedure No. 6: Emissions Averaging Procedure; and Adopting a CEQA Negative Declaration for the Project

CLOSED SESSION:

The Board of Directors adjourned to Closed Session at 11:02 a.m.

10. 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 cases:

1. *Chevron Products Company, et al. v. Communities for a Better Environment, et al., California Court of Appeals, 1st Dist., Case No. A125531*
2. *Richard M. Peekema v. Bay Area AQMD, United States District Court, N.D. Cal., Case No. C09 03283 RS*

OPEN SESSION:

The Board of Directors reconvened in Open Session at 11:08 a.m.; there was no reportable action taken in Closed Session.

OTHER BUSINESS:

11. Report of Executive Officer/APCO:

- Presented Summary of 2009 Ozone Season through August 4, 2009 - Between June 29 and August 4, there were 2 days with a 1-hour excess, both in Livermore, and no national exceedances;
- The State budget will affect the Air District by an 8% reduction in property tax revenues; update to be presented at the September Budget & Finance Committee meeting;
- 300 truck retrofits have been installed to date at the Port of Oakland with a goal of 800 retrofits by the end of the year, as well as another 200-300 truck replacements;
- District employee, Christine Whiting recently passed away; condolences from the Board and District have been sent to the family;
- Mr. Broadbent introduced James Goldstein, Executive Officer, California Air Resources Board (CARB).

James Goldstein, Executive Officer, CARB, thanked the Board for their on-going partnership, leadership, the truck retrofit work at the Port of Oakland, and provided the following update:

- CARB adopted the low carbon fuel standard in April;
- CARB adopted a mandatory reporting rule and are working on a fee Rule for all state agencies involved in the implementation of AB 32;
- SB 375 was signed into law last year and their Regional Transportation Advisory Committee is meeting now to evaluate methodologies to set GHG targets for 18 regions, which will be brought to their Board later this year;
- CARB is also starting the process for cap and trade rule making;
- CARB has been following key events in Washington, D.C.

12. Chairperson's Report: Chairperson Torliatt reported that the regularly scheduled Board of Directors meetings of August 19 and September 2 are canceled; the next Board of Directors meeting will be held September 16, 2009.

13. Time and Place of Next Meeting: Regular Meeting - Wednesday, September 16, 2009
939 Ellis Street, San Francisco, CA 94109

14. Adjournment: Meeting adjourned at 11:15 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: September 10, 2009

Re: Board Communications Received from August 5, 2009 through September 15, 2009

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from August 6, 2009 through September 15, 2009, if any, will be at each Board member's place at the September 16, 2009, Regular Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

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

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 8, 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 August 1 – August 31, 2009. Out-of-state travel is reported in the month following travel completion.

DISCUSSION:

There were no employees who traveled out of state in the Month of August, 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 P. Broadbent
Executive Officer/APCO

Date: September 9, 2009

Re: Notice of Proposed Amendments to the Air District's Administrative Code
Division I - Operating Policies and Procedures - Section 7 Advisory Council

RECOMMENDED ACTION

None at this time. This item is a notice of Proposed Amendments to the Air District's Administrative Code, Division I Operating Policies and Procedures - Section 7 Advisory Council. These proposed amendments provide more flexibility for the Advisory Council to schedule the required number of topic meetings and related discussion meetings. The proposed revisions are indicated in underline and strikethrough in the attached proposal.

BACKGROUND

In accordance with provisions of the Administrative Code governing amendments to the Code, notice is hereby given at the Board of Directors regular meeting of September 16, 2009 that the Board of Directors will consider at its next regular meeting, amendment of the code to provide more flexibility for the Advisory Council to schedule the required number topic meetings and related discussion meetings.

On January 7, 2009 the Board of Directors amended the Administrative Code to revise meeting approach and role for the Advisory Council. The revisions specify that the Advisory Council meet only as a full Council nine times per calendar year. The nine meetings include a retreat and four topic meetings, each followed by discussion meeting at which a report to the Board is prepared. Experience during the first year of the revised approach has shown that the Council generally requires two discussion meetings after each topic meeting to discuss the presentations and materials received and prepare and finalize a report to the Board. Accordingly, the Council will not be able to schedule four topic meetings during calendar year 2009.

The proposed amendments specify up to ten meetings per year, including a retreat, up to four topic meetings and one or more discussion meetings following each topic meeting. This will provide more flexibility for the Council to schedule the required number of topic meetings and related discussion meetings, but still allow for up to four topic meetings, if only one discussion meeting is required for each topic meeting.

DISCUSSION

This noticing action starts the process of amending the Air District's Administrative Code to provide more flexibility for the Advisory Council to schedule topic meetings and related discussion meetings.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Gary Kendall
Reviewed by: Jean Roggenkamp
Brian Bunger

Attachment(s)

Proposed Amendments to Administrative Code

SECTION 7 ADVISORY COUNCIL

7.1 ACTIVITIES OF COUNCIL. (Revised 1/7/09, 10/7/09)

(a) The Advisory Council shall meet as a full Council a total of up to ten (10) times each year, for the following purposes: In or around January of each year the Advisory Council shall meet in a retreat format to consult with the Executive Officer/APCO to consider topics for no more than four (4) meetings in a symposium format at which presentations and discussion on specific topics shall take place. The topics for these meetings may include, but are not necessarily limited to, the following topics: (1) current developments in health information related to air quality; (2) current developments in technologies and techniques for control of air emissions from stationary sources; (3) current developments in technologies and techniques for control of air emissions from mobile sources; and (4) current developments related to air quality in land use planning and transportation planning. Each of these meetings shall be followed by one or more discussion meetings at which the presentations made and materials received at the topical meeting are discussed and a report for the Board's consideration on the specific topic is agreed upon. Except as provided in Section 7.1(b), the total number of meeting per year shall not exceed ten (10).

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(b) For any single additional meeting, if at least two-thirds (2/3) of the seated members of the Advisory Council determine by a vote taken in a regular meeting of the Advisory Council, or if at least two-thirds (2/3) of the seated members of the Board of Directors determine by a vote taken during a regular meeting of the Board of Directors, that such additional meeting is necessary, the Advisory Council may meet at such additional times and occasions as the Advisory Council, itself, or the Board of Directors shall determine is necessary.

(c) The Advisory Council shall make recommendations and reports to the Board of Directors on the matters considered at its meetings as the Council determines to be advisable and in such manner and form as the Council determines advisable. The Advisory Council shall consider and report to the Board on specific matters which may be referred to the Council by the Board of Directors or by the Executive Committee of the Board of Directors. The members of the Advisory Council are selected because of their eminence in their professions and fields of endeavor and as representatives of interest groups in the community. The Advisory Council shall consider for the Board of Directors matters which come before the Council to arrive at the best advice upon which the Council

may agree, which advice may include the technical, social, economic, environmental and fiscal aspects of such issues.

- (d) No more than four (4) Advisory Council members shall attend meetings other than meetings of the Advisory Council and meetings of the Board of Directors or Board of Directors' Committees at the District's expense.

7.2 TERM OF OFFICE.

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

7.3 LIMITS ON TERM OF OFFICE.

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

7.4 EXPENSE REIMBURSEMENT. (Revised 1/14/09)

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

7.5 OTHER EXPENSES. (Revised 1/14/09)

Other expenses may be allowed after prior specific approval by a majority of the Board of Directors.

7.6 CLERK CERTIFICATION OF ATTENDANCE AND EXPENSES.

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

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: September 10, 2009

Re: Report of the Climate Protection Committee Meeting of September 10, 2009

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Climate Protection Committee met on Thursday, September 10, 2009. The Committee received the following reports and updates:

- A) Climate Protection Best Practices Web Portal; and
- B) Greenhouse Gas Thresholds in the CEQA Guidelines Update

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

- A) Funding for the web portal is included in the FY 2009/2009 budget.
- B) Funding for consultant services to update the Air District CEQA Guidelines is included in the FY 2008/2009 Air District budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Jennifer Chicconi

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: September 10, 2009

Re: Update on the Climate Action Web Portal

RECOMMENDED ACTION:

None. For information only.

BACKGROUND

The Air District partnered with the Institute for Local Government (ILG) to develop a climate action web portal hosted by ILG to serve local governments in the Bay Area. The purpose of the web portal is to showcase climate actions, programs and resources available within the Bay Area to accelerate implementation of climate protection practices throughout the Bay Area. The web portal was developed in response to local governments' need for a centralized Bay Area climate protection resource. The web portal was announced at the Air District's 2009 Climate Action Leadership Summit.

DISCUSSION

Staff will present the Bay Area Climate Action Web Portal, its development process, and web portal functions and features. The web portal is currently in a beta-version and is expected to go live in September.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

Funding for the web portal is included in the FY 2008/2009 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sigalle Michael
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANGEMENT DISTRICT
Memorandum

To: Chairperson Kishimoto and Members
of the Climate Protection Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 10, 2009

Re: GHG Thresholds in the CEQA Guidelines Update

RECOMMENDED ACTION

Receive and File.

BACKGROUND

The *BAAQMD CEQA Guidelines* provide guidance to local lead agencies conducting air quality analyses pursuant to the California Environmental Quality Act (CEQA). Staff is updating and revising the Guidelines, including developing new thresholds to address greenhouse gas emissions.

DISCUSSION

The CEQA Guidelines recommend air quality significance thresholds for local agencies to use when preparing impact analyses under CEQA and provide guidance on the District's recommended analytical methodologies and mitigation measures. As part of the CEQA Guidelines update, staff is developing new significance thresholds for greenhouse gas emissions from projects subject to CEQA. The Guidelines will include analytical methodologies and mitigation measures to quantify and reduce greenhouse gas emissions from land use projects. Through the CEQA Guidelines update work effort staff is also reviewing, and revising as necessary, existing thresholds of significance.

Staff hosted public workshops for the Guidelines update in February and April 2009. At the workshops staff presented various options for developing thresholds of significance. Staff is hosting another series of workshops on September 8, 9 and 10, 2009, to present a revised Thresholds of Significance Report with staff-recommended thresholds of significance and a complete draft CEQA Guidelines update with revised analytical methodologies and mitigation strategies.

Staff will provide an update on the progress made developing the District's thresholds of significance and revising the CEQA Guidelines.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Funding for consultant services to update the Air District CEQA Guidelines is included in the FY 2008/2009 Air District budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Greg Tholen
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: September 10, 2009

Re: Report of the Budget & Finance Committee Meeting of September 16, 2009

RECOMMENDED ACTION

The Committee may recommend Board of Directors' approval to:

1. Approve the transfer of \$750,000 from the Reserve for Economic Uncertainties to the fiscal year 2009/10 budget, per direction of the Board of Directors from its meeting on August 5, 2009 following the report from the Board Ad Hoc Committee on Port Emissions); and
2. Approve moving \$200,000 from the Undesignated Reserve into the FY 2009/2010 budget and authorize the Executive Officer/APCO to solicit bids and execute agreements to review the TFCA program and ensure compliance with current documentation standards.

BACKGROUND

The Budget & Finance Committee will meet on Wednesday, September 16, 2009. The Committee will receive and consider the following reports and recommendations:

- A) Fourth Quarter Financial Report – Fiscal Year Ending 2008-09;
- B) Budget Status Update for Fiscal Year Ending 2010;
- C) Consider recommending the transfer of \$750,000 in funding from reserves to the Fiscal Year 2009/10 budget, per the direction of the Board of Directors from its meeting on August 5, 2009;
- D) Consider recommending Board of Directors approval to move \$200,000 from the Undesignated Reserve into the FY 2009/2010 budget and authorize the Executive Officer/APCO to solicit bids and execute agreements to review the TFCA program and ensure compliance with current documentation standards.

Attached are the staff reports to be presented in the Budget and Finance Committee meeting.

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 Air District's FYE 2010 Budget has been impacted by an 8% reduction of property taxes.
- C) If approved, \$750,000 will be transferred from the Reserve for Economic Uncertainties for this purpose and an adjustment of the Air District's FY 2009/10 budget will be made accordingly. District funding will be contingent on Eco-Transportation receiving funding from the Port of Oakland, using clean barges and performance-based milestones.
- D) The FY 2009/2010 Professional Services budget in Finance will be increased by \$200,000 with a corresponding decrease in the Undesignated Reserve.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Lisa Harper
Approved by: Jennifer Chicconi

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: September 1, 2009

Re: Fourth Quarter Financial Report – Fiscal Year 2008-09

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION

GENERAL FUND BUDGET: STATEMENT OF REVENUE

Comparison of Budget to Actual Revenue

- County receipts totaled \$21,670,196 (105%) of budgeted revenue.
- Permit Fee receipts were \$22,222,824 (98%) of budgeted revenue.
- Title V Permit Fees were \$2,583,435 (102%) of budgeted revenue.
- Asbestos Fees were \$1,681,182 (87%) of budgeted revenue.
- Toxic Inventory Fees were \$616,191 (112%) of budgeted revenue.
- Penalties and Settlements were \$2,544,207 (102%) of budgeted revenue.
- Miscellaneous Revenue receipts were \$96,188 (22%) of budgeted revenue.
- Interest Revenue was (\$1,031,708) which totaled (-72%) of budgeted revenue.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES

Comparison of Budget to Actual Expenditures

- Salaries and Benefits were \$42,049,487 (97%) of budgeted expenditures.
- Operational Services and Supplies were \$8,167,211 (50%) of budgeted expenditures.
- Capital Outlay was \$1,948,236 (88%) of budgeted expenditures.

INVESTMENT BALANCES

Cash and Investments in County Treasury:

General Fund	\$ 23,242,601
TFCA	\$ 56,005,159
MSIF	\$ 32,388,522
LESBP	\$ 382,000
Carl Moyer	\$ <u>7,209,484</u>
	<u>\$119,227,766</u>

Investments Held as:

Fixed Income Investments	28% of total investment pool
Short Term Investments	72% of total investment pool

	6/30/2007	6/30/2008	6/30/2009
	Audited	Audited	Unaudited
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>

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: August 27, 2009

Re: Budget Status Update for Fiscal Year Ending 2010

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION:

Staff will provide the Committee an overview of the impact of recent state budget decisions on the FYE 2010 budget.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The Air District's FYE 2010 Budget has been impacted by an 8% reduction of property taxes.

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 Chris Daly and Members of the
Budget and Finance Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: August 6, 2009

Re: Recommend Transfer of \$750,000 in funding reserves to fiscal year
2009/10 budget for Marine Highway Project at the Port of Oakland

RECOMMENDED ACTION:

Following direction from the Board of Directors (Board) on August 5, 2009, recommend that the Board approve the transfer of \$750,000 from the Reserve for Economic Uncertainties to the fiscal year 2009/10 budget.

BACKGROUND

On August 5, 2009, following the report from the Board Ad Hoc Committee on Port Emissions, a unanimous decision was taken to remove \$750,000 from reserves to fund the Marine Highway Project at the Port of Oakland.

DISCUSSION

This project represents a mode shift from over-the-road truck transportation of cargo containers to a river-based barging system. The California Department of Agriculture estimates that approximately 294,000 containers of agricultural goods are exported annually through the Port from the Sacramento Valley. Eco-Transportation (the marine barge operator) proposes to operate a barge between the Ports of Stockton and Oakland that would at peak capacity account for 50% of all agricultural cargo. In terms of air quality, this project benefits the District and Port in that it eliminates the need for approximately 4,900 truck trips per week through the West Oakland community and along Bay Area highways. This equates to an almost 15 ton per year reduction in emissions of diesel particulate matter.

The Port of Oakland has applied for approximately \$2 million in US Department of Transportation grants to co-fund this effort. Additionally, due to the regional nature of the project (reducing emissions from trucks traveling between Stockton and Oakland) the San Joaquin Valley Air Pollution Control District has also agreed to provide up to \$750,000 in matching funds contingent on action by the Bay Area Air District. This project is expected to commence in summer 2010 and reach peak capacity by summer 2012.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

If approved, \$750,000 will be transferred from the Reserve for Economic Uncertainties for this purpose and an adjustment of the Air District's FY 2009/10 budget will be made accordingly. District funding will be contingent on Eco-Transportation receiving funding from the Port of Oakland, using clean barges and performance-based milestones.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Damian Breen
Reviewed by: Jack M. Colbourn

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: September 8, 2009

Re: Transportation Fund for Clean Air (TFCA) Program Process and File Review

RECOMMENDED ACTION:

Consider recommending Board of Directors' approval to move \$200,000 from the Undesignated Reserve into the FY 2009/2010 budget and to authorize the Executive Officer/APCO to solicit bids and execute agreements to review the TFCA program and ensure compliance with current documentation standards.

BACKGROUND

In 2006, the Air District updated the administration of Carl Moyer Program funding. As a result, the Air District has developed and implemented improved controls for grants administration.

DISCUSSION

During the past 12 months, staff has applied the improved controls currently used in the Carl Moyer Program to the TFCA FY 2008/2009 cycle, which covers approximately 60 projects. Funding from this request will be used to ensure that approximately 1,000 project folders (from 1992-2006) meet current documentation standards. The estimated time to complete this work is 2,000 hours.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The FY 2009/2010 Professional Services budget in Finance will be increased by \$200,000 with a corresponding decrease in the Undesignated Reserve.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared 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: September 8, 2009

Re: Update on Preparation of the Bay Area 2009 Clean Air Plan

RECOMMENDED ACTION:

Receive and File.

BACKGROUND

The California Health & Safety Code requires air districts to revise their plans for attaining state ozone standards on a triennial basis. These triennial updates must demonstrate an annual 5% reduction in ozone precursor emissions or contain “all feasible control measures” to attain state ozone standards as expeditiously as practicable and reduce transport to neighboring air basins. To date, all California air districts have pursued the all feasible measures approach.

In response to state and federal requirements and guidelines, air quality planning to date has been performed on a single pollutant basis, with an emphasis on ozone planning. However, in the past several years, there has been growing interest in the concept of multi-pollutant air quality planning. In January 2004, the National Research Council issued recommendations calling for air quality agencies to pursue a multi-pollutant, risk-based, “one atmosphere” approach for air quality planning. US EPA has been moving to gradually embrace the concept of planning on a multi-pollutant basis.

Air District staff agrees with this approach and therefore the 2009 Clean Air Plan (CAP) will provide a multi-pollutant control strategy to reduce emissions of particulate matter, air toxics, and greenhouse gases, in addition to ozone precursors. The plan will propose an integrated control strategy that identifies co-benefits (or disbenefits) of the control measures for each of these pollutants.

DISCUSSION

Staff has made considerable progress on the CAP in recent months. In late August, staff released a draft control strategy which includes 57 proposed control measures in five categories:

- Stationary source measures
- Mobile source measures
- Transportation control measures
- Land use and local impacts measures
- Energy and climate measures

Public workshops to solicit feedback on the draft control strategy were held in early September in Mountain View and in Oakland. Staff is currently working to prepare the draft CAP, a draft programmatic environmental impact report, and a socio-economic analysis of the CAP. Staff intends to release these documents in October for public review. Our goal is to bring a final plan to the Air District's Board of Directors for consideration by the end of calendar year 2009. Air District staff has worked with JPC and regional agency staff during preparation of the CAP.

Staff will provide a presentation to summarize progress on the CAP to date and describe the draft control strategy.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Staff and consultant work on the 2009 CAP was included in the FYE 09 and FYE 10 budgets.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David Burch
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: September 4, 2009

Re: Report on a Pilot Business Incentive for Industry Compliance Schools

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

The Air District periodically holds classes to educate regulated industry about compliance with air quality regulations. To accommodate small businesses, generally the courses are held in the evening hours throughout locations in the Bay Area. When courses are taught for medium or large businesses, they can be held during business hours. The courses are free except when reimbursement for course materials is needed; a very nominal fee is charged. In the past, small business-oriented courses have been held for printing operations, automotive refinishers (autobody shops), dry cleaners, asbestos contractors and gasoline dispensing facilities (gas stations).

The Air District provides compliance assistance to industry with easy-to-understand course materials, compliance assistance advisories, frequently asked questions, sample self-inspection forms and/or recordkeeping forms and other assistance. With these tools, air quality regulations are better understood and compliance rates increase, with significant benefits for air quality and public health. As small businesses have limited resources and do not always have environmental expertise on staff, it is critical that they attend Air District compliance schools to become educated about air quality regulations.

DISCUSSION

Given the state of the economy and the additional burden on industry sectors typically considered small businesses, staff have developed a pilot financial incentive program to encourage attendance at District-run Industry Compliance Schools. Regulation 8, Rule 45: Motor Vehicle and Mobile Equipment Coating Operations, was amended by the Board of Directors on December 3, 2008. Changes to the rule include additional recordkeeping requirements and annual equipment registration for mobile refinishing operations (a.k.a. mobile coaters). The rule amendments further reduce volatile organic compound emissions by adopting VOC limits and operational standards. Mobile coaters are portable spray coating operations that travel to auto dealers or other locations to paint vehicles. Because mobile coaters operate in multiple locations, their operations are difficult to locate and inspect. Therefore, it is difficult to

verify their compliance status. The equipment registration and the new reporting requirement that they must supply a listing of scheduled clients upon Air District request should address these needs. The initial equipment registration fee established by Regulation 3, Schedule R is \$100 for mobile coaters.

As a pilot program, mobile coaters who attend upcoming Regulation 8-45 Industry Compliance Schools and complete the online equipment registration process during the course will receive a \$50 discount on the initial registration fee. By providing this financial incentive, staff project higher Industry Compliance School attendance and registrations than would occur without the discount. This discount is similar to the Small Business discount of 50% already provided for new and modified permits as allowed in Air District Regulation 3, Section 302.1: Small Business Discount.

After completion of this pilot program, staff will evaluate its effectiveness and may propose a broader program of initial registration discounts for certain small businesses listed in Regulation 3, Schedule R, such as small graphic arts (printing) operations and under-fired charbroilers. By providing registration discounts, the Air District encourages regulated industry to become educated about air quality regulations, reduces the regulatory burden on these small companies, increases compliance rates, and improves air quality benefits to public health in the Bay Area.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

The estimated costs would be \$5,000, or less, in loss of fee revenue for the initial registration of the mobile refinishing operations (mobile coaters).

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Barbara Coler
Reviewed by: Kelly Wee