



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
REGULAR MEETING
JUNE 16, 2010

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
JUNE 16, 2010
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, Brad Wagenknecht
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)

PROCLAMATION(S)/AWARDS

The Board of Directors will recognize employees who have completed milestones of twenty-five (25), and thirty (30) years of service with the Air District during this first half of the calendar year.

Present Proclamation of Appreciation to Bruce Kern, Executive Director, East Bay Economic Development Alliance for his years of service to the Bay Area.

CONSENT CALENDAR (ITEMS 1 – 3)

Staff/Phone (415) 749-

1. Minutes of June 2, 2010 Special Meeting and May 5, 2010 Budget Hearing

L. Harper/5073

lharp@baaqmd.gov

2. Communications

J. Broadbent/5052

jbroadbent@baaqmd.gov

Information only.

3. Consideration of Authorization of the Executive Officer/APCO to Enter into a Contract for Disaster Recovery Services and Internet Bandwidth
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will consider authorizing the Executive Officer/APCO to enter into a replacement agreement for Disaster Recovery and Internet Bandwidth in the annual sum of \$161,400.

COMMITTEE REPORTS AND RECOMMENDATIONS

4. Report of the **Public Outreach Committee** Meeting of June 9, 2010
CHAIR: M. ROSS
J. Broadbent/5052
jbroadbent@baaqmd.gov

PRESENTATION

5. Advisory Council Report and Recommendations from the March 10, 2010 Advisory Council Meeting on California's 2050 GHG Emission Reduction Target – Industrial Sector
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Advisory Council will present a report and recommendations from its March 10, 2010 meeting on California's 2050 GHG emission reduction target of 80% below 1990 levels – industrial sector.

6. Recommendation that the Board of Directors Reserve Up to \$5 Million in Mobile Source Incentive Funds in Support of Shore-Power Projects at Bay Area Ports
J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will update the Board of Directors (Board) on the California Air Resources Board's proposed allocation of Goods Movement Bond (I-Bond) funding to the Bay Area trade corridor. Based on this proposed allocation and a shortfall in the I-Bond funding available for shore-power projects, staff is recommending that the Board of Directors reserve up to \$5 million in Mobile Source Incentive Funds specifically for shore-power projects at Bay Area ports.

PUBLIC HEARING(S)

7. Final Public Hearing to Consider Adoption of Proposed Fee Amendments to Air District Regulation 3: Fees, and Approval of a Notice of Exemption from CEQA
J. Broadbent/5052
jbroadbent@baaqmd.gov

At the Board of Directors' meeting on May 5, 2010, staff presented proposed amendments to Air District Regulation 3: Fees – for next fiscal year. No action was taken at that time to adopt the fee amendments, because under California Health and Safety Code 41512.5, certain fee schedules require an initial public hearing to be held at least 30 days prior to the date at which adoption or revision of the fee schedules will be considered by the district board. This is the final public hearing.

8. Final Public Hearing and Consideration of Adoption the Proposed Air District Budget for Fiscal Year Ending 2011

J. Broadbent/5052
jbroadbent@baaqmd.gov

Pursuant to California Health and Safety Code Section 40131, the Board of Directors will conduct a final public hearing and consider adoption of the proposed Air District Budget for FYE 2011.

CLOSED SESSION

9. **EXISTING LITIGATION (Government Code Section 54956.9(a))**

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):

- A) Andrea Gordon v. Bay Area AQMD, United States District Court, N.D. Cal., Case No. CV 08-8630 BZ
- B) United States and Communities for a Better Environment v. Pacific Gas and Electric Company, et al., United States District Court, N.D. Cal., Case No. C-09-4503 SI
- C) Duraflame, Inc. v. Bay Area AQMD, California Court of Appeal, First Appellate District, Civil Case No. A128062

OPEN SESSION

OTHER BUSINESS

10. Report of the Executive Officer/APCO
11. Chairperson's Report
12. Time and Place of Next Meeting – 9:45 A.M. Wednesday, July 7, 2010 – 939 Ellis Street, San Francisco, CA 94109
13. 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

JUNE 2010

| <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 | 16 | 9:45 a.m. | Board Room |
| Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i> - RESCHEDULE TO WEDNESDAY, JUNE 30, 2010 | Thursday | 24 | 9:30 a.m. | 4 th Floor Conf. Room |
| Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i> | Wednesday | 30 | 9:30 a.m. | 4 th Floor Conf. Room |

JULY 2010

| <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 | 7 | 9:45 a.m. | Board Room |
| Joint Policy Committee Special Meeting | Friday | 9 | 10:00 a.m. | MTC Auditorium 101 – 8 th Street Oakland, CA 94607 |
| Advisory Council Regular Meeting | Wednesday | 14 | 9:00 a.m. | Board Room |
| Joint Policy Committee - RESCHEDULE TO FRIDAY, JULY 9, 2010 | Friday | 16 | 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 | 21 | 9:45 a.m. | Board Room |
| Board of Directors Mobile Source Committee <i>(Meets 4th Thursday each Month)</i> | Thursday | 22 | 9:30 a.m. | 4 th Floor Conf. Room |
| Board of Directors Stationary Source Committee <i>(At the Call of the Chair)</i> | Friday | 23 | 9:30 a.m. | Board Room |

AUGUST 2010

| <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 |
| 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 Mobile Source Committee <i>(Meets 4th Thursday each Month)</i> | Thursday | 26 | 9:30 a.m. | 4 th Floor Conf. Room |
| HL – 6/10/10 (3:50 p.m.) P/Library/Forms/Calendar/Calendar/Moncal | | | | |

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson, Brad Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 7, 2010

Re: Board of Directors Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors Budget Hearing of May 5, 2010 and Board of Directors Special Meeting of June 2, 2010.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Budget Hearing of May 5, 2010 and Board of Directors Special Meeting of June 2, 2010.

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 Budget Hearing
May 5, 2010

DRAFT MINUTES

CALL TO ORDER: Chairperson Brad Wagenknecht called the meeting to order at 12:07 p.m.

Roll Call: Chairperson Brad Wagenknecht; Vice Chairperson Tom Bates; Secretary John Gioia, and Directors Chris Daly, Susan Garner, Carole Groom, Scott Haggerty, Jennifer Hosterman, Ash Kalra, Carol Klatt, Nate Miley, James Sperring, and Gayle B. Uilkema

Absent: Directors Harold Brown, Dan Dunnigan, David Hudson, Liz Kniss, Eric Mar, Mark Ross, Pamela Torliatt, Ken Yeager and Shirlee Zane

Public Comments:

There were no public comments.

PUBLIC HEARING(S)

1. **Public Hearing on the Proposed Air District Budget for Fiscal Year Ending 2011**

Executive Officer/APCO Jack Broadbent received confirmation to waive the staff report and reported that the next public hearing would be held on June 16, 2010.

The public hearing was opened.

There were no public comments.

Director Daly commended staff for its recommended balanced approach for the proposed Air District Budget, stating that the budget maintains a significant number of vacancies, creates efficiencies, and recognizes concessions made with the Employees' Association contract through negotiations.

The public hearing was closed.

OTHER BUSINESS

2. **Board Members' Comments - None**

3. **Time and Place of Next Meeting** – 9:45 a.m., Wednesday, June 16, 2010, 939 Ellis Street, San Francisco, CA 94109.
4. **Adjournment:** The Board of Directors Meeting adjourned at 12:10 p.m.

Lisa Harper
Clerk of the Boards

Bay Area Air Quality Management District
City of San Jose Council Chambers
200 East Santa Clara Street
San Jose, CA 95113
(415) 749-5000

Board of Directors' Special Meeting
June 2, 2010

DRAFT MINUTES

CALL TO ORDER: Chairperson Brad Wagenknecht called the meeting to order at 9:52 a.m.

Roll Call: Chairperson Brad Wagenknecht; Vice Chairperson Tom Bates; Secretary John Gioia, and Directors Susan Garner, Carole Groom, Scott Haggerty, David Hudson, Jennifer Hosterman, Ash Kalra, Liz Kniss, Eric Mar, Mark Ross, James Spering, Pamela Torliatt, Gayle B. Uilkema and Ken Yeager

Absent: Directors Harold Brown, Chris Daly, Carol Klatt, Nate Miley, and Shirlee Zane

Director Kalra welcomed Directors, Air District staff and audience members to the City of San Jose, and introduced the City of San Jose's Mayor, Chuck Reed, who has been supportive of the District's efforts. Mayor Reed gave welcoming remarks.

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

Public Comments:

There were no comments

Board Member Comments:

Chairperson Wagenknecht announced that the public hearing regarding adoption of Proposed Amendments to the District's California Environmental Quality Act (CEQA) Guidelines would be moved on the agenda to be heard after adoption of the Consent Calendar.

CONSENT CALENDAR (Items 1-4):

1. Minutes of May 5, 2010;
2. Communications;
3. District Personnel on Out-of-State Business Travel;
4. Consideration of Authorization for Execution of Purchase Order in Excess of \$70,000 Pursuant to Administrative Code Division II Fiscal Policies and Procedures Section 4.3 Contract Limitations

Board Action: Director Torliatt made a motion to approve Consent Calendar Items 1 through 4; Director Garner seconded the motion; carried unanimously without opposition.

PUBLIC HEARING(S)

9. **Public Hearing to Consider Adoption of Proposed Amendments to the District's California Environmental Quality Act (CEQA) Thresholds of Significance**

Executive Officer/APCO Jack Broadbent expressed thanks to Directors and District staff for their work to date on the proposed amendments. He outlined the many hearings, workshops, public outreach and development of the proposed amendments which has occurred to date.

Director of Planning, Research and Rules, Henry Hilken, gave an overview of the District's CEQA Guidelines, the District's work with Bay Area city and county staff, technical training tools, workshops held, case studies, and a demonstration that the proposed thresholds are sound and an achievement of health protective goals of the District. He presented a summary of revisions made to date as a result of comments received during the public hearing process, and described the development of Community Risk Reduction Plans (CRRPs) and revised screening tools for risks and hazards.

Mr. Hilken reviewed the numerous public and written comments received to date, some of which allege the recommended thresholds are not stringent enough especially in CARE impacted communities, and others expressed concern regarding hindrances with development of infill, transit-oriented development, and development in priority areas. Staff believe the thresholds provide an important level of health protection, and do not believe that thresholds would hinder infill, as a number of case studies have been presented that reveal thresholds can be met.

Two issues that have come up in previous discussions relate to a tiered approach, and Mr. Hilken referred to copies before the Board Members of two tables for Board consideration; one a tiered approach and one without a tiered approach which is recommended by staff and which he described. He also presented and described two additional case studies as requested by the Executive Committee members at their May 24, 2010 meeting.

Mr. Hilken concluded his presentation, stating next steps include continued training for local agency staff and proceeding with CRRPs, continued technical assistance to cities and counties, monitoring and reporting implementation of CEQA guidelines, and reporting of issues that may arise to the Board. Staff recommended adoption of proposed amendments to CEQA thresholds of significance.

Board Member Comments/Questions:

Directors commended staff on their work in development of the proposed amendments, technical tools and training, and extensive outreach to cities and counties. They acknowledged and discussed initial trepidation regarding agencies/developers' ability to meet thresholds, as well as outstanding concerns by environmental stakeholders that thresholds are not strong enough. They discussed proposed changes to hazard indexes and trigger levels, public comment letters received citing the importance for a regional approach, CRRPs achieving greater health benefits than a project-by-project approach, and Mr. Hilken reviewed with Boardmembers how CRRPs would be developed.

Mr. Broadbent noted that staff believes the CRRPs represent the best way to provide for control on the local level. Staff recommended that it makes sense for the Board to implement a future effective date no later than January 1, 2011 for the risk and hazard thresholds for receptor projects, which will provide a six-month timeframe with which to develop CRRPs. He also noted that staff would be reporting to the Board as to how plans are developing. He explained there are already many planners using information to put together the CRRPs.

Public Comments:

The following speakers provided public comments:

Kerrie Romanow, City of San Jose
Laurel Prevetti, City of San Jose
Andy Katz, Breathe California
Matt Vespa, Center for Biological Diversity
Jonathan Scharfman, Universal Paragon Corporation
Andrew Smith, City of Walnut Creek
Darin Ranelletti, City of Oakland
Lydia Tan, Bridge Housing Corporation
Katie Lamont, Eden Housing, Inc.
Paul Campos, Bay Area Urban Policy Committee
Marianna Grossman, Sustainable Silicon Valley
Wafaa Aborashed, Bay Area Environmental Health Collaborative/DDDC & Bay Area Healthy 880 Communities
Linda Best, Contra Costa Council
Stephanie Shakofsky, Center for Creative Land Recycling
Matt Regan, Bay Area Council
Anna Lee, BAEHC/CBE
Azibuike Akaba, Regional Asthma Management & Prevention
Rosina Roibal, Bay Area Environmental Health Collaborative
Jenny Bard, American Lung Association
Cheryl O'Connor, Building Industry Association of Bay Area/BRIDGE
Guy Bjerke, Western States Petroleum Association
Jose Garcia, Building Trades Council
Evelyn Stivers, Nonprofit Housing Coalition
Joe Kirchofer, Mid-Peninsula Housing
Evan Reeves, Center for Creative Land Use

Recusal: Director Haggerty recused himself from further participation on the matter due to an identified conflict of interest, and left the Council Chambers.

Mr. Broadbent reiterated staff's recommendation to the Board of Directors, asked them to consider timing, and suggested the Board monitor the implementation of the guidelines through Board Committees.

Motion: Director Kalra made a motion to adopt the CEQA thresholds of significance; adopt staff's proposal for CRRPs; delay implementation until January 1, 2011; hold an annual review of guidelines and new policies every June; ensure implementation of the thresholds is consistent with the goals of

SB 375; work with regional partners on goals; explore specific roles the District can play through financial support with CRRPs with local jurisdictions; and for the screening process to be used to the greatest extent possible to help cities and projects in mitigating impacts to avoid having the need for a full EIR. Director Uilkema seconded the motion.

Mr. Broadbent suggested that direction to staff not be included as part of the motion to adopt the proposed thresholds. Directors Kalra and Uilkema agreed to the amendment, and restated the motion, as follows:

MOTION: Approve the proposed CEQA air quality thresholds of significance as described in the *Proposed Thresholds of Significance* (May 3, 2010) report (Attachment 1) and in the summary table of the proposed thresholds of significance in Attachment 2.

Directors held discussion and questioned whether the staff recommendation will be a hindrance to infill and priority development communities. Mr. Broadbent described in detail the history of the District's public outreach, workshops, extensive work and meetings with ABAG and MTC who are more supportive of the role the thresholds play. He said staff has reviewed those developments underway or those planned which represent the foundation of the case studies presented by staff. Directors acknowledged the benefit of CRRPs for communities for identifying risks, acknowledged the need to delay the project-by-project threshold on the receptor side to January 1, 2011 which will provide an opportunity for communities to develop and adopt CRRPs, and supported being more proactive in identifying ways the District could fund and/or lead in the development of plans.

Directors confirmed that adoption of the CEQA thresholds of significance would become effective immediately with the exception of receptor risk and hazard thresholds. Directors supported the suggestion to work with agencies in developing mitigation measures standards, voiced the need to be careful not to exacerbate cities' economic health or affordable housing, to properly analyze new developments, and reiterated the need for annual review.

BOARD ACTION: Director Kalra made a motion to adopt the CEQA Thresholds of Significance as set forth in Attachment A, discussed in the proposed thresholds of significance report dated May 3, 2010; and to adopt a Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting Thresholds for use in determining the significance of projects' environmental effects under the California Environmental Quality Act and in the summary table of the proposed thresholds of significance in Attachment 2. Vote 14-0-7-1: Ayes: Bates, Garner, Gioia, Groom, Hosterman, Hudson, Kalra, Mar, Ross, Sperring, Torliatt, Uilkema, Yeager and Wagenknecht. Noes: None. Absent: Brown, Daly, Dunnigan, Klatt, Kniss, Miley and Zane. Recused: Haggerty.

RESOLUTION: Adopted Resolution No. 2010-06; A Resolution of the Board of Directors of the Bay Area Air Quality Management District Adopting Thresholds for Use in Determining the Significance of Projects' Environmental Effects Under the California Environmental Quality Act.

The Board gave direction to staff to present an annual review each June to the Board of Directors; to work with ABAG and other regional partners; to explore roles that the Air District can play with CRRPs; and for the District to work with the building industry, local planning partners, and stakeholders to assist in screening potential impacts and in development of standard mitigation measures.

COMMITTEE REPORTS AND RECOMMENDATIONS:

5. Report of the Stationary Source Committee Meeting of May 13, 2010
Chairperson Uilkema

The Committee met on Thursday, May 13, 2010 and approved the Minutes of March 5, 2010 and April 12, 2010.

Public comment was received from a representative of Quarry No opposing Lehigh Southwest Cement Plant operations, citing a notice of violation.

The Committee received a presentation regarding proposed amendments to Regulation 9, Rule 10: Nitrogen Oxides (NO_x) and Carbon Monoxide (CO) from Boilers, Steam Generators and Process Heaters in Petroleum Refineries. The Committee reviewed a history of the rule, a description of the regulated devices and the current NO_x limits, a description of the proposed changes to the NO_x limits, and associated emission reductions and costs. Next steps include preparation of a second draft of the proposed rule and solicitation of comments on the second draft, preparation of CEQA and socio-economic analyses, an update to the Committee, and a public hearing before the Board of Directors.

The Committee then received a presentation regarding petroleum refinery Flare Minimization Plans (FMPs), and discussed the 2nd Annual FMP Update submitted October 1, 2009, noting reductions of 56% in flare gas volume and 69% in emissions. The Committee then discussed flare emission trends and was presented with graphs of flare vent gas volumes, methane, non-methane hydrocarbon, and sulfur dioxide emissions. The Committee requested that flare activity and emissions from 2001 to the present be represented graphically by individual refinery in order to show improvements made by each refinery.

The Committee reviewed source reduction, recovery compressor, fuel gas balance, and sour gas scrubbing measures, flare regulation violations, and 5 year rolling averages of the period ending 2008 versus 2009. Overall, regulations are effective and considered as a model by other agencies. The 3rd Annual FMP Update is due October 1, 2010.

The next meeting of the Committee is scheduled for Friday, July 23, 2010 at 9:30 a.m.

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

6. **Report of the Climate Protection Committee Meeting of May 19, 2010**
Chairperson Torliatt

The Climate Protection Committee met on Wednesday, May 19, 2010 and approved the Climate Protection Committee minutes of March 3, 2010.

The Committee received an informational status report on the implementation of greenhouse gas (GHG) regulations and Scoping Plan measures for stationary sources, effective dates of regulations, recordkeeping, reporting requirements, affected statewide businesses and facilities, and performance standards for each regulation. The Committee then reviewed EPA's GHG mandatory reporting rule, EPA's GHG Tailoring Rule, Prevention of Significant Deterioration (PSD) permits, use of Best Available Control Technology (BACT) to reduce GHG emissions, and delineation of specific requirements associated with monitoring, record-keeping and reporting of Title V permitting.

The Committee then considered Greenhouse Gas Reduction Grant Program recommended projects and contingencies, and discussed \$4.4 million in settlement funds provided by ConocoPhillips to complete energy efficiency projects in the communities surrounding the refinery. It was noted that projects operate on a reimbursement basis and approximately \$400,000 will be used for the Air District's administrative and audit costs. Public comments were taken from agency representatives with proposals recommended for grant funds, who thanked the District.

The Committee recommends that the Board of Directors approve up to \$4.4 million for the Greenhouse Gas Reduction Grant Program and authorize the Executive Officer/APCO to execute Grant Agreements for the recommended projects and contingencies to expend this funding.

The Committee then deferred the update regarding projects funded through the \$3 million Climate Protection Grant Program, but took public comment. Representatives from Marin Clean Energy, the City of El Cerrito, and San Mateo County thanked the District for funding under the Climate Protection Grant Program.

The next meeting of the Climate Protection Committee is at the Call of the Chair.

Board Action: Director Torliatt made a motion to approve the report and recommendations of the Climate Protection Committee; Director Uilkema seconded the motion; carried unanimously without objection.

7. **Report of the Executive Committee Meeting of May 24, 2010**
Chairperson Wagenknecht

The Executive Committee met on Monday, May 24, 2010 and approved the minutes of February 22, 2010.

The Committee received the Quarterly Report of the Hearing Board for the period of January 2010 through March 2010.

The Committee received an update regarding Video Conferencing capabilities and reviewed possible goals to secure video conferencing in the Committee Room, the Board Room, establish pre-qualified

remote locations, and/or to utilize District-owned remote locations. The Committee discussed associated advantages relating to greater public access, transparency, and use of technology, as well as potential barriers of cost and difficulties in running effective meetings. The Committee requested staff further investigate and return at the next meeting with information on the ability to webcast meetings, identify and pre-qualify remote locations, and report on any feedback received for cost sharing capabilities with regional agencies.

The Committee then received a status report on the Strategic Facilities planning process regarding the District's relocation. The Committee discussed a proposed scope of work that will:

1. Identify preliminary facility requirements/program for the Air District, MTC and ABAG,
2. Develop scenarios and a master plan to include feasibility studies; and
3. Include preparation of a preliminary cost/benefit evaluation by an advisory firm

The Committee reviewed a sample purchase scenario of a San Francisco office building, discussed its debt structure, loan balance, loan costs per square foot and current and future property values. The Committee received feedback about ABAG and MTC's interest in a regional governance center; discussed preferences for a San Francisco or Oakland based headquarters, and proposed Ad Hoc Committee representation. The Committee recommended Board of Directors' approval to establish a Strategic Facilities Planning Ad Hoc Committee comprised of the Chair, Vice-Chair and Executive Officer/Directors of the Air District, MTC and ABAG to provide direction and oversight of the project, and recommended that year-to-year Ad Hoc Committee representation be determined by the current District/Commission Chair.

The Committee then received an update on proposed revisions to the District's California Environmental Quality Act (CEQA) Guidelines, reviewed progress made to date on meetings and workshops held, development of technical support documents, training tools, and Community Risk Reduction Plans (CRRPs). A series of case studies were presented relating to projects which posed challenges. The Committee confirmed that initial focus would be in CARE communities and discussed risks and hazards of case studies presented, their economic feasibility, examples of mitigations, potential use of statements of overriding considerations, and examples of tools used which could move projects forward.

The Committee recommended that the Board of Directors select Sonoma Technologies, Inc. (STI) to assist with the development of local emission inventories to support community risk reduction plans; and authorize the Executive Officer/APCO to execute a contract with STI to assist with the development of local emission inventories to support CRRPs in an amount not to exceed \$207,200.

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

Board Action: Chairperson Wagenknecht made a motion to approve the report and recommendations of the Executive Committee; Director Torliatt seconded the motion; carried unanimously without objection.

8. **Report of the Mobile Source Committee Meeting of May 27, 2010**
Vice Chairperson Groom

The Mobile Source Committee met on Thursday, May 27, 2010, and approved the minutes of the March 25, 2010 meeting.

The Committee received an overview of Transportation Fund for Clean Air (TFCA) projects with proposed grant awards over \$100,000. In total, these projects will reduce over 3 tons per year of criteria pollutants and over 1,000 tons per year of CO₂. The Committee then discussed funding distributions awarded to date by County and by project type. The Committee recommends that the Board of Directors approve TFCA 2009/2010 projects with proposed grant awards over \$100,000 listed on Attachment 1, and also authorize the Executive Officer/APCO to enter into agreements for the recommended TFCA FY 2009/2010 projects on Attachment 1.

The Committee then received a presentation of TFCA County Program Manager Expenditure Plans for FY 2010/2011, reviewed recommended FY 2010/2011 allocations, and requirements for successful expenditure of funds within two years. The Committee recommends that the Board of Directors approve the allocation of FY 2010/2011 TFCA County Program Manager Funds listed on Table 1, and authorize the Executive Officer/APCO to enter into funding agreements with the County Program Managers for the total funds to be programmed in FY 2010/2011 as listed on Table 1 and consistent with the Board-adopted TFCA Program Manager Fund Policies.

The Committee then considered proposed FY 2010/2011 TFCA Regional Fund policies and funding allocations for shuttle, ridesharing and bicycle projects, and program timelines for each project category, discussed proposed policies that will streamline evaluation criteria and administration, and maximize funding distribution. The Committee reviewed a chart of proposed funding allocations for the 2010/2011 cycle, and discussed the concept of bicycle sharing programs at transit facilities in Portland, Oregon and in Europe, and requested that staff evaluate the potential for funding these programs in the Bay Area.

The Committee recommends that the Board of Directors approve TFCA Fiscal Year 2010/2011 Regional Fund policies presented in Attachment A, and approve TFCA Regional Fund project category specific policies and set-asides which includes up to \$4 million for shuttles and rideshare projects, and up to \$600,000 for bicycle facilities projects. Any monies not spent in categories within 12 months will revert back to the TFCA Regional Fund for re-allocation.

The Committee then received an update on the Air District Truck Incentive Programs funded through the I-Bond, TFCA and CMP/VIP programs. The Committee discussed current and future funding levels under each program and projects funded, reviewed the initial and second allocation to trucks operating in and around the Port of Oakland, Air Resources Board's April 30, 2010 and June 30, 2010 deadlines, and outreach conducted. The District will continue to schedule public workshops, establish vendor partnerships, add trucking associations/trade groups to its mailing lists, and will consider off-site outreach locations, advertising on billboards, websites and trucker Wi-Fi points.

Lastly, the Committee received an update on the Air District's application for funding from Years 2 and 3 of the California Goods Movement Bond (I-Bond) program and a request from staff to recommend Board of Directors approval of a resolution in support of this application. The Committee discussed the I-Bond application process which included a request for \$45 million for on-road trucks, \$39.14 million for shore power projects and \$3.86 million for locomotive projects. The ARB will approve recommendations at their June Board meeting and the resolution's adoption is required as

part of the application process. The Committee recommends that the Board of Directors adopt a resolution in support of the Air District's application for Goods Movement Bond funding.

The next meeting of the Mobile Source Committee is scheduled for Wednesday, June 30, 2010, at 9:30 a.m.

Board Action: Director Groom made a motion to approve the report and recommendations of the Mobile Source Committee; Director Hosterman seconded the motion; carried unanimously without objection.

RESOLUTION: Adopted Resolution 2010-05, A Resolution of the Board of Directors of the Bay Area Air Quality Management District Accepting Goods Movement Emission Reduction Program Funds from the California Air Resources Board.

CLOSED SESSION

10. **EXISTING LITIGATION (Government Code Section 54956.9(a))**
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):
 - A) **Andrea Gordon v. Bay Area AQMD**, United States District Court, N.D. Cal., Case No. CV 08-8630 BZ
 - B) **United States and Communities for a Better Environment v. Pacific Gas and Electric Company, et al.**, United States District Court, N.D. Cal., Case No. C-09-4503 SI

The Board of Directors continued the Closed Session items to the June 16, 2010 Board of Directors meeting.

OTHER BUSINESS

11. **Report of the Executive Officer/APCO** – No Report
12. **Chairperson's Report** – No Report
13. **Time and Place of Next Meeting: Regular Meeting** - Wednesday, June 16, 2010, 9:45 a.m., 939 Ellis Street, San Francisco, CA 94109.
14. **Adjournment:** The Board of Directors Meeting adjourned at 1:15 p.m.

Lisa Harper
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson, Brad Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 7, 2010

Re: Board Communications Received from June 2, 2010 through June 15, 2010

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from June 2, 2010 through June 15, 2010, if any, will be at each Board Member's place at the June 16, 2010 Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 8, 2010

Re: Contract for Disaster Recovery Services and Internet Bandwidth

RECOMMENDED ACTION:

Authorize the Executive Officer/APCO to enter into a replacement agreement for Disaster Recovery and Internet Bandwidth in the annual sum of \$161,400 as is currently detailed in the District Fiscal Year Ending (FYE) 2010 Information Systems budget and in the proposed budget for FYE 2011.

DISCUSSION

Yearly expenditures for disaster recovery systems and the District's Wide Area Network (WAN) and internet bandwidth have held at \$161,400 over the preceding three years. Replacing the agreement with the current low price provider for bandwidth will allow the District to increase the amount of data available for recovery, increase internet bandwidth and maintain cost.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

This expenditure is included in the Air District's FYE 2010 and FYE 2011 budget, and no further impact is anticipated.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: John Chiladakis
Reviewed by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson, Brad Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 9, 2010

Re: Report of the Public Outreach Committee Meeting of June 9, 2010

RECOMMENDED ACTIONS:

None.

BACKGROUND

The Public Outreach Committee met on Wednesday, June 9, 2010. The Committee received the following reports:

- A) Update on Great Race for Clean Air
- B) 2010 Spare the Air Every Day Campaign
- C) Update on Community Outreach Events

Attached is the staff report presented in the Public Outreach Committee packet.

Chairperson Mark Ross will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) None.
- B) Funding for the Spare the Air Every Day Campaign is included in the current FY 2009-10 budget. Additional funding is programmed in the proposed FY 2010-11 budget. The campaign is funded primarily through the Congestion Mitigation Air Quality (CMAQ) program, supplemented by Transportation Fund for Clean Air and the District general fund.
- C) None.

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 Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 2, 2010

Re: Update on Great Race for Clean Air

RECOMMENDED ACTION:

For information only.

BACKGROUND

The Great Race for Clean Air originated in 2007 and was previously a Tri-Valley Resource Team employer-based event. Resource Teams are community-based groups comprised of members from business, government and non-profit organizations that work on projects to improve air quality at the local level.

The focus of the Great Race for Clean Air is to encourage Bay Area employers and their employees to reduce the number of single passenger vehicles on our roadways by taking alternative modes of transportation.

DISCUSSION

Expanding upon the success of previous Great Race for Clean Air events in the Tri-Valley area, this year the event will offer a chance for all Bay Area employers to participate in this friendly competition to address workplace air quality concerns and transportation solutions specific to their region of the Bay Area. Resource Teams around the nine-county region will be recruiting employers in their local counties to participate in this event. The event will run from August 1 through September 30, 2010.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Kristina Chu
Reviewed by: Rich Lew

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 2, 2010

Re: 2010 Spare the Air Every Day Campaign

RECOMMENDED ACTION:

For information only.

BACKGROUND

Since 1991, the *Spare the Air* campaign has worked to persuade the public to adopt long-term behaviors that protect air quality. Past *Spare the Air* campaigns have typically targeted the general population, household decision-makers and solo drivers.

This year, the campaign will focus on a younger audience - specifically ages 17–35. Targeted outreach to a younger audience is a new approach for the campaign and offers the opportunity to reach a previously underserved demographic with a host of Spare the Air messages. Secondary research supported the targeting of a younger demographic because of their more flexible lifestyles and social ideals.

The 2010 smog season runs from Monday, May 3 – September 30, 2010.

DISCUSSION

District staff and contractors have developed a comprehensive campaign geared to this audience, complete with new graphic design and innovative methods of outreach.

Air District staff is working with contractors O’Rorke Inc. and MS&L Public Relations, on the 2010 *Spare the Air Every Day* campaign. While main messages remain the same – take transit, share a ride, maintain your car, link your errands, walk or ride your bike instead of driving – the way these messages are presented will be adjusted to appeal to a younger audience.

This year’s *Spare the Air Every Day* campaign will include:

- Live Nation Partnership – Through a partnership with Live Nation, a major concert promoter, the *Spare the Air* message will reach the target demographic at concerts throughout the summer season. Live Nation will also host a “Text 2 Win” promotion that will encourage concertgoers to sign up for “Spare the Air” text alerts.

- Advertising – The campaign will use geo-targeted television and online advertising to reach the younger demographic throughout the Bay Area.
- Outreach – Through a partnership with the Oakland A’s, the District will receive maximum exposure via electronic scoreboard messages during the A’s games against the NY Yankees and the SF Giants. Additional community and media events throughout the Bay Area will expand the reach of the *Spare the Air Every Day* campaign.

At the Public Outreach Committee meeting, staff will elaborate further on these components of the 2010 *Spare the Air Every Day* Campaign.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funding for the campaign is included in the current FY 2009-10 budget. Additional funding is programmed in the proposed FY 2010-11 Budget. The campaign is funded primarily through the Congestion Mitigation Air Quality (CMAQ) program, supplemented by Transportation Fund for Clean Air and the District general fund.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Kristine Roselius
Reviewed by: Lisa Fasano

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Ross and Members
of the Public Outreach Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 2, 2010

Re: Update on Community Outreach at Events

RECOMMENDED ACTION:

For information only.

BACKGROUND

The District uses Community Outreach events to educate the public about air pollution and to promote long-term behavior changes that improve air quality. The District has conducted outreach at county fairs, Earth Day celebrations and employer-based transportation events. In addition, the District has sponsored a number of other events including Sunday Streets and Bike to Work Day.

DISCUSSION

Staff will present an overview of upcoming community outreach events.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Richard Lew
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 10, 2010

Re: Advisory Council Report and Recommendations from the March 10, 2010
Meeting on California's 2050 GHG Emission Reduction Target: Industrial
Sector

RECOMMENDED ACTION:

Receive and File

DISCUSSION

The following presentations were made at the March 10, 2010 Advisory Council meeting on California's 2050 GHG Emission Reduction Target of 80% below 1990 levels – Industrial Sector.

1. ***GHG Emission Reduction Strategies for Oil/Gas Production & Refining*** by Joe Sparano, Executive Advisor to the Chairman of the Board of the Western States Petroleum Association (WSPA). Mr. Sparano advises the Chairman and supports WSPA's President on matters related to the trade organization's operations and advocacy in six Western states. He was previously WSPA's President for almost seven years and provides WSPA with the benefit of 41 years experience in the petroleum industry. He has played a key role in formulating WSPA's positions on GHG emissions policies in the Western United States.
2. ***GHG Emission Reduction Strategies for Industrial Energy Use*** by Dr. Eric Masanet, Principal Scientific Engineering Associate in the Energy Analysis Department at Lawrence Berkeley National Laboratory (LBNL). His research areas at LBNL include life-cycle assessment of energy-using products, industrial energy efficiency analysis, emerging technology assessment, modeling of industrial greenhouse gas emissions, greenhouse gas mitigation strategies, and sustainable design and manufacturing. Dr. Masanet also works with the U.S. EPA's Energy Star for Industry program, researching and co-authoring energy efficiency guides for plant managers in various industrial sectors.
3. ***GHG Emission Reduction Strategies for the Cement Industry*** by Greg Knapp, Director, Environmental Safety & Health West Region, Lehigh Hanson. Mr. Knapp has been managing Environmental, Safety, and Health issues for major natural resource-based corporations in the Western U.S. for over 28 years. In the last four years, Mr. Knapp has been a leader in the California cement industry's effort to develop a workable solution to the challenge of climate-change here in California.

BACKGROUND

Advisory Council members Kraig Kurucz, Stan Hayes, Robert Bornstein, Harold Brazil, and Benjamin Bolles met after the March 10, 2010 meeting and prepared a draft report on California's 2050 GHG emission reduction target for the industrial sector. At the April 14, 2010 Advisory Council meeting, the Council discussed and revised the draft report, and at its May 12, 2010 meeting, the Council finalized the report and recommendations. The Final Report of their summary, discussion, key points, emerging issues, and recommendations is attached, as well as approved minutes of the April 14, 2010 and May 12, 2010 meetings.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

Attachment(s): Final report from the March 10, 2010 Advisory Council meeting on California's 2050 GHG Emission Reduction Target – Industrial Sector
Advisory Council Minutes of April 14, 2010 and May 12, 2010

FINAL REPORT ON THE MARCH 10, 2010 ADVISORY COUNCIL MEETING ON CALIFORNIA'S 2050 GHG EMISSION REDUCTION TARGET – INDUSTRIAL SECTOR

SUMMARY

The following presentations were made at the March 10, 2010 Advisory Council meeting on California's 2050 GHG emission reduction target of 80% below 1990 levels – industrial sector:

1. ***GHG Emission Reduction Strategies for Oil/Gas Production & Refining*** by Joe Sparano, Executive Advisor to the Chairman of the Board of the Western States Petroleum Association (WSPA). Mr. Sparano advises the Chairman and supports WSPA's President on matters related to the trade organization's operations and advocacy in six Western states. He was previously WSPA's President for almost seven years and provides WSPA with the benefit of 41 years experience in the petroleum industry. He has played a key role in formulating WSPA's positions on GHG emissions policies in the Western United States.
2. ***GHG Emission Reduction Strategies for Industrial Energy Use*** by Dr. Eric Masanet, Principal Scientific Engineering Associate in the Energy Analysis Department at Lawrence Berkeley National Laboratory (LBNL). His research areas at LBNL include life-cycle assessment of energy-using products, industrial energy efficiency analysis, emerging technology assessment, modeling of industrial greenhouse gas emissions, greenhouse gas mitigation strategies, and sustainable design and manufacturing. Dr. Masanet also works with the U.S. EPA's Energy Star for Industry program, researching and co-authoring energy efficiency guides for plant managers in various industrial sectors.
3. ***GHG Emission Reduction Strategies for the Cement Industry*** by Greg Knapp, Director, Environmental Safety & Health West Region, Lehigh Hanson. Mr. Knapp has been managing Environmental, Safety, and Health issues for major natural resource-based corporations in the Western U.S. for over 28 years. In the last four years, Mr. Knapp has been a leader in the California cement industry's effort to develop a workable solution to the challenge of climate-change here in California.

DISCUSSION MEETINGS

Discussion meetings were held April 14 and May 12, 2010. The Minutes of those meetings are attached.

The Air District benefits from hearing the perspectives of a wide spectrum of stakeholders, including interest groups and representatives of regulated industry. The purpose of the presentations to the Advisory Council was to gain an understanding of the magnitude and composition of emissions from the industrial and commercial sector. Those presentations and subsequent discussion focused on two key subsectors of the

industrial sector: cement plants and refineries. The representatives from industry and Lawrence Berkeley National Laboratory gave their perspectives on actions required to achieve AB 32 GHG reduction goals and the challenges that their sub sector may have in meeting those goals. We also were presented with the results of a study on the potential benefits of wide spread adoption of technologies to improve energy efficiency.

KEY POINTS

The challenges of reducing GHG emissions to meet California's 2020 and 2050 goals are large. One speaker noted that the UC Institute for Energy and Environment concluded that reductions required for meeting the 2050 goal are "massive" and would require eliminating GHG emissions from virtually all electricity production and non-aviation transportation sources and two-thirds or more of the carbon from all other sources. To reach the 80% GHG reduction goal by 2050 will require that every sector of the economy reduce emissions. Key points based on the presentations to us, and our assessment of them, are summarized as follows:

Energy Efficiency

- Energy efficiency improvements must be an important part of the plan to achieve the 2020 and 2050 GHG reduction goal. It is important to encourage development and adoption of advanced technologies that reduce emissions. However, energy efficient improvements alone will not be sufficient to meet the 2050 GHG reduction goal and continued increases in demand related to population growth is expected to offset efficiency gains.
- Electrification of processes, if coupled with lower-carbon sources of electricity, can reduce GHG emissions.
- From data presented by District staff, the Industrial/Commercial and Transportation sectors each contribute about one-third of the 95.8 million tons of CO₂ equivalents in the 2007 Bay Area GHG emission inventory.
- The industrial, commercial, and electrical generation sectors together comprise 43% of total GHG emissions. These sectors cannot meet the GHG reductions required to meet the 2050 goal without carbon capture and sequestration (CCS), a complex topic that will get a full review at a future advisory council meeting. The speakers presented a few potential technologies for capture and sequestration that may be of interest for an appropriate agency to test or develop. Because of the large R&D costs involved, however, CCS testing and development must be done by other agencies (e.g., U.S. Department of Energy) with substantial funding resources, and is not the role of BAAQMD.
- An opportunity exists to combine reinjection of liquid CO₂ into wells that require tertiary oil extraction. More than a billion tons of CO₂ storage capacity may exist in local California oil fields, which have about 57 billion barrels of stranded oil resources. CO₂ for injection could also come from other industries. Studies have indicated that, throughout California, 1.7 billion tons of CO₂ storage may exist in gas reservoirs and 3.6 billion tons in oil reservoirs. Connecting sources of CO₂ emissions to possible injection reservoirs, however, will be a major challenge.

Also, a technical debate exists over safety and seismic issues associated with underground carbon sequestration.

- All organizations that purchase equipment that use electricity or fuel, such as boilers, HVAC equipment, fans, pumps, and motors, make strategic capital planning decisions on replacements based on expected lifetimes. When purchasing this equipment, lower emitting or higher efficiency purchases are more likely to be made if BAAQMD, state agencies, and others send the right signals. For example, boilers last 15-30 years and can be maintained to last even longer, but several generations of new technology could be developed over that lifetime. The District is encouraged to use regulatory strategies that look at a strategic horizon of approximately 10 years and to encourage better replacement choices.
- The largest industrial sector end uses of electricity and natural gas are listed in Table 1, helping to identify those uses where technology improvements can have the greatest impact. The possibility of improving a technology and sharing it across industries can also foster greater adoption of new technologies.

Table 1. End uses for electricity and natural gas within all industrial subsectors

| <u>Electricity (83% of total use)</u> | <u>Natural gas (44% of total use)</u> |
|--|--|
| Motors (54%) | Steam systems (26%) |
| Drives (19%) | CHP (10%) |
| Pumps (18%) | HVAC (8%) |
| Compressed air (9%) | |
| Fans (8%) | |
| HVAC (12%) | |
| Refrigeration (9%) | |
| Lighting (8%) | |

- An important key to future success will be to encourage greater adoption of under-utilized technologies for common applications, such as motor systems, steam systems, process heating systems, and lighting systems, i.e., a super boiler can save 15% on fuel for food processing steam. Solar thermal concentration can someday replace up to 100% of steam system fuel demand. Process electrification, coupled with advances in low-carbon electricity sources, can lead to additional reductions.

Petroleum

- Weaning ourselves off of petroleum and phasing in other fuels will take a long time, perhaps decades, because even the closest alternatives are still distant as full replacements. Biofuels, wind, and solar are not projected to come on-line fast enough to meet 2020 GHG reduction goals. Alternative fuels for transportation are also more costly than today’s fuels.

- As a practical matter, we are a long way from a full replacement of diesel and gasoline. The U.S. buys 200 billion gallons of oil annually and California produces 43 million gallons of fuel per day. A recent large cellulosic ethanol plant will produce only 250,000 gallons/day. U.S. DOE indicates that in 2008, 16% of the U.S. energy mix was renewable and 84% was coal, gas, and oil. In 2035, DOE projects that only 22% will be renewable.
- Petroleum production is projected to grow only slightly by 2050. Cement and glass usage will grow more than 50%, and usage by other sectors will grow even more through 2050. Efficiency gains are possible, and become more important to implement as sectors grow.

Cement

- Cement and its use in construction is a fundamental part of society. It is inherent in the chemical reactions required to make cement that its production creates large amounts of CO₂. To reduce that CO₂, an alternative chemical process must be found or the CO₂ must be captured and sequestered.
- Cement production also requires use of fuel to heat raw materials, which also produces CO₂. Fuel used in a cement kiln can be coal, coke, tire derived, or biomass, which is starting to be used as a fuel in cement making. A change from more traditional fuels to biomass will have a positive impact on atmospheric CO₂ levels; however, potential increases in criteria and toxics will need to be considered. While it does not change the product emissions (i.e., from the basic chemistry of making cement), use of biomass does offset the use of the fossil fuels that release sequestered carbon. A facility near Redding is using 5-10% biomass as a replacement. There are limits to overcome, but 60 to 70% replacement of the fossil fuel portion of CO₂ from cement production may be possible.
- Table 2 shows possible energy efficiency improvements projected in the cement industry. These improvements, while important, will not be sufficient to reduce GHG emission from the cement industry by percentages anywhere comparable to California's 80% GHG reduction goal by 2050.

Table 2. Expected energy efficiency gains in cement industry

| Source of efficiency gain | 2005-2030 | 2030-2050 | Total |
|----------------------------------|------------------|------------------|--------------|
| Fuel mix | 8% | 3% | 11% |
| Thermal energy efficiency | 2.5% | 2.5% | 5% |
| Electrical efficiency | 5% | 5% | 10% |

- The challenges to cement replacement are many, e.g., building codes may be overly specific of clinker content and cement type. Clinker content of 71-93% in cement is based on California design requirements. Changing cement specifications will require establishment of new knowledge of performance. Fly ash based cement is being looked at as a low carbon alternative. Mirant Corp.

will soon ask Maryland authorities for permission to construct a coal-ash recycling facility that would allow it reduce its disposal of coal ash in landfills. Proponents claim it would be a replacement to Portland cement, while emitting one-quarter of the carbon dioxide generated in the production of Portland cement.

General

- Presenters made strong recommendations for use of oil and gas fields for sequestration and for development of new technologies in cement production. Alternative energy can also be further investigated. Because of the importance of these issues and of the rapid changes occurring, the topic of how to best reduce GHG emissions from the industrial sector will need to be revisited.
- Just as with more traditional air pollution problems like ozone, there are no silver bullets. We will need to adopt a large number of many small measures to achieve large GHG emission reductions, starting with the most cost effective reductions and by implementing them fully and early, at the same time developing and implementing new and innovative technological solutions and fundamentally changing individual behavior. Each sector of the economy will need to participate in meeting GHG reduction goals.

EMERGING ISSUES

1. Fugitive emissions of high global warming potential. Fugitive emissions of high global warming potential refrigerants are expected to grow significantly in the coming decade. Preventing or reducing these emissions is a potential topic for a future meeting.

2. Impact of carbon pricing on low income communities. Any consideration of a “carbon signal,” pricing or taxes, should consider the impact of carbon pricing on low income communities.

3. Availability of small business funding support. Small businesses have been selected to receive nearly \$5.4 billion from the U.S. Department of Energy (DOE) via grants, contracts, loans, loan guarantees, and tax credits for clean energy technologies under the stimulus program enacted in 2009, the Obama administration said March 17th. According to a report released by the department, about a third of its funding from the American Recovery and Reinvestment Act has been directed so far to small companies of less than 500 employees.

4. Development of new biofuel production techniques. Solazyme, Inc., a California company that produces biodiesel, jet fuel, and bio crude oil from algae and plant material, announced they have received a \$22 million grant to build its first commercial algae-fuel refinery in Pennsylvania. Solazyme's bio fuel process can reduce greenhouse gas emissions by about 80 percent, compared with petroleum-based diesel, according to the company.

5. Movement to roll back AB 32. An Initiative to roll back AB 32 until specific economic indicators are achieved has been submitted to the Secretary of the State. Studies of the costs of AB 32 range across the board and use different scenarios to predict future impacts and effectiveness. Better studies will be required to predict the costs to

small business and households. The California Legislative Analysts Office (LAO) was extremely critical of the two studies produced by Varshney and Associates regarding the costs of AB32 to small business and households. In the report, Legislative Analyst Mac Taylor stated: “Our review of this study indicates that it contains a number of serious shortcomings that render its estimates of the annual economic costs of state regulations essentially useless.”

6. Job growth from innovative technology. Other studies, such as a report from the Natural Resources Defense Council, United Auto Workers union, and Center for American Progress released March 16th state that efforts to build more fuel-efficient vehicles have the potential to provide jobs for thousands of Americans, provided the government adopts policies that encourage manufacturers to create those jobs.

7. Role of industry to reduce GHGs. Companies in the Bay Area are manufacturing solar panels, electric cars, and cleaner diesel generators, to name but a few products will be required to meet the 2050 goals and to continue to clean our air. Industry will also be asked to manufacture and provide additional energy saving, energy storage, and more efficient devices in the future.

8. Evolving sense of future technology possibilities. A comment from the public urged the Council to not be limited by our present views on what is possible. Many examples of past failures to predict future technology breakthroughs exist, and as technology advances, the low hanging fruit grows back.

RECOMMENDATIONS

The District has taken an important and widely recognized leadership role in climate protection, and we strongly support those efforts and encourage the District to continue and expand them. Important interrelationships exist between public health and measures to reduce air toxics, criteria pollutants, and GHG emissions.

Understanding the nature, causes, and measures for reduction of industrial GHG emissions, including the progress made in developing improvements in efficiency, alternatives, and new strategies, is difficult and complex. As a result, the Advisory Council should continue to revisit these topics periodically. Advances are occurring sufficiently rapidly that the District may benefit from the Council’s re-examination of these issues in the future.

It appears from the testimony presented to us that many new technologies and potentially life-style changing events will be needed in the future to achieve California’s 80% GHG reduction goal by 2050. The District should thus continue its efforts to define areas where significant reductions can be achieved and intersect with the District’s authority and mission.

The following Advisory Council recommendations to the Board are based on the above presentations and subsequent discussions among Advisory Council members:

1. The Air District should continue to explore avenues for expanding the scope of grant funding where the greatest reductions in GHGs, as well as criteria air pollutants and toxics are demonstrated. The Advisory Council supports and encourages the District's use of innovative methods, such as the recent establishment of the Air District Foundation, to enable funding of a broader range of opportunities. Grants that will also reduce other emissions, such as air toxics and criteria pollutants, should be targeted at communities with the poorest air quality and at improvements to technologies that use the most energy or produce the most air toxins in addition to CO₂.
2. The Air District should focus grants and regulations for the industrial sector on those types of equipment common to many sub sectors that use the largest amounts of natural gas (e.g., improvements in HVAC efficiency can have a greater impact when adopted on many systems across multiple industries).
3. The Air District should encourage organizations to make decisions best for climate protection and air quality when selecting future equipment by setting forward looking standards based on such factors as energy efficiency research and development at agencies such as the DOE and the California Energy Commission. The District should also work with other agencies to ensure, where appropriate and feasible, the continuation of favorable tax treatment and state or federal incentive programs to incentivize investment in new lower emitting, more efficient equipment.
4. The Air District should encourage and track Research & Development by ARB, DOE, and other agencies on alternative fuels with lower carbon intensity for industrial processes and motor vehicles and should incorporate them into the permitting process and/or District policies. Since emissions from transportation are also significant, changes in the refining industry, and the subsequent combustion of these fuels in vehicles and equipment, can produce important emission reductions.
5. As the scope of the GHG regulatory program increases, it is important to ensure that District fees fully cover its costs.
6. Large emitters of GHGs are also often large emitters of air toxics and criteria pollutants. Because of the linkages between public health and emission reduction measures, the District should continue its integrated approach to multi-pollutant planning, rule development, and stationary source permitting by consideration of the combined effects of the three pollutant categories.

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

APPROVED MINUTES

Advisory Council Regular Meeting
9:00 a.m., Wednesday, April 14, 2010

CALL TO ORDER

Opening Comment: Chairperson Bramlett called the meeting to order at 9:00 a.m.

Roll Call: Chairperson Jeffrey Bramlett, M.S., Vice Chairperson Ken Blonski, M.S.; Secretary Stan Hayes; Council Members Jennifer Bard, Benjamin Bolles, Robert Bornstein, Ph.D., Harold Brazil, John Holtzclaw, Ph.D., Robert Huang, Ph.D., Rosanna Lerma, P.E., Jane Martin, Dr.Ph.H., Kendal Oku, Jonathan Ruel

Absent: Council Members Louise Bedsworth, Ph.D., Kraig Kurucz, M.S., Gary Lucks, JD, CPEA, REA I, Debby Mytels, and Dorothy Vura-Weis, M.D., M.P.H.

Introductory of New Advisory Council Members:

Chairperson Bramlett introduced new Advisory Council Members, Alexandra Desautels (*Public Health*) and Michael Sandler (*Community Planning*) and gave a background of each new member. Council Members welcomed both new members.

Oath of Office:

Oaths of Office were given to Alexandra Desautels and Michael Sandler.

Public Comment Period: There were no public comments.

Consent Calendar:

1. Approval of Minutes of the March 10, 2010 Advisory Council Meeting

Advisory Council Action: Member Holtzclaw made a motion to approve the minutes of March 10, 2010; Vice Chairperson Blonski seconded the motion; unanimously carried without objection.

DISCUSSION:

2. Discussion of Draft Report on the Advisory Council's March 10, 2010 Meeting on California's 2050 GHG emission reduction target of 80% below 1990 levels – Industrial Sector

Mr. Hayes, reporting on behalf of lead author, Mr. Kurucz, noted that he and members Kurucz, Brazil, Bolles and Bornstein worked on developing the Draft Report. The work group received comments which were incorporated into the report, and he suggested the Council focus on the body of the report and to forward any minor, non-substantive typographical corrections to Mr. Kurucz after the meeting.

Summary Section:

Advisory Council Members began review of the Draft Report and indicated they had no changes to the Summary.

Key Points Section:

Members agreed that Key Points should be clear and short; they should identify whether they represent a synthesis between speaker ideas and members' additions, and suggested enumerating them similar to what had been done in previous reports.

Members requested revision of the Calcination process equation by placing a "+" after CaCO_3 and capitalizing the "o" in "Cao" to "CaO".

Members acknowledged that while hearing from industry representatives is very important, two of the three speakers did not provide recommendations. It was suggested that additional information be asked to further consider issues of concern to the Advisory Council. Members generally agreed that the section on key points expressed the views of speakers and not necessarily the views of the Advisory Council.

Staff indicated that working with industry is fundamental to the work of the Air District; while speakers' statements may be viewed as biased, their perspectives need to be heard and discussed, and the Advisory Council needs to balance what is heard. Staff also noted that the Advisory Council can politely point out that the information is not helpful in achieving the Advisory Council's goal.

Emerging Issues Section:

There were no comments.

Discussion Section:

Members noted that producing cement requires "creation" of a CO_2 molecule, questioned the reference to a 30% reduction, requested clarifying percentages relating to 2020 and 2050, and requested adding verbiage to the paragraph regarding specific reductions. Members also asked to remove the last paragraph regarding a comment from the public ahead of Recommendations and moving it to the section which summarizes the process, under Discussion Meeting.

Recommendations # 1, 2 and 3:

Member Hayes indicated one take-home message he had was that carbon capture and sequestration was an essential piece of a strategy to successfully reach an 80% goal by 2050, which will take enormous resources, and said the group tried to be mindful of the District's authority.

Dr. Martin requested some mention of public health benefits and maximizing public health, in particular, to vulnerable communities. She suggested some examples to be included in Recommendation #2.

Dr. Bornstein referred to Recommendation #1 and believed that the paragraph seems like the industry perspective. He questioned whether the end users' perspective be the focus and not the manufacturers of energy, as it seems to take the onus off of industry and place it on the end user. He commented that in today's news, a recommendation came from a group that the trade part of cap and trade not apply to large sources in poor neighborhoods. Ms. Bard noted that this was the report she had distributed to all members at the onset of the meeting.

Secretary Hayes noted that the intent was that if criteria are used as additional criteria in deciding who to award grants to, and he asked to be mindful of who is using the most energy. Members suggested and agreed to eliminate "within the industrial sector" and remove the last sentence and Table 2.

Secretary Hayes said if grants are targeted to the industrial sector, it would be useful to take into account their energy use. Dr. Bornstein suggested adding in the word, “industrial” before end users; however, Secretary Hayes suggested leaving in the “within the industrial sector”. Chairperson Bramlett asked that the question be recorded and suggested that the group rework the paragraph to more clearly bring out the intent and identify what the operative control the group was trying to embark upon.

Dr. Holtzclaw noted that Recommendation #3 ends abruptly and it was suggested removing “so BAAQMD can”. Dr. Bornstein referred to Recommendation #2 and asked to insert the word “industry” into the paragraph. Chairperson Bramlett suggested that if the word is inserted into the first paragraph, it would generally intend to apply to all recommendations.

Member Bard requested adding a statement in the Discussion section that references the report and their findings which she distributed to Advisory Council members. Ms. Roggenkamp asked Members to check ahead of time with the Chairperson if they want to distribute something to the Council in order to provide time for review and consideration. Chairperson Bramlett suggested adhering to the process, and possibly bringing the report to a subsequent meeting.

Member Bard suggested an added recommendation that should research and implement best practices in control technologies, monitoring, regulations and policies to reduce GHGs from the refinery sector that have co-benefits of reducing air toxics and criteria pollutants. Chairperson Bramlett said he would prefer that if members had additional suggestions, that they be submitted to the author in the manner discussed and approved. He recognized another meeting most likely would need to be held, and the work group can consider the request.

Member Sandler said in encouraging the Air District to expand its grant approach, he questioned where the money would come from. One idea would be to continue with a polluter-pays principle, and he suggested adding something to indicate that it could be funded through carbon pricing strategies.

Dr. Holtzclaw supported Ms. Bard’s recommendation and also Dr. Martin’s concerns which express that these are the most heavily impacted communities, so co-benefits are also benefitting the area geographically where they are most needed.

Secretary Hayes suggested Ms. Bard work to incorporate her recommendation into Recommendation #3, as it speaks specifically to technology transfer, and more than just efficiency improvements could be referenced in the paragraph.

Dr. Martin said the Council heard that consumer demand will drive production from industry representatives, yet they employ so many people and economic impacts may decline. She suggested addressing economic impacts somewhere in the recommendations and suggested retraining people in clean energy jobs rather than petroleum industry jobs. She noted she had also forwarded information to the author regarding occupational training programs for people in industries that may be displaced; however there was no mention of this.

Dr. Bornstein said he finds the industry perspective throughout the document, noting that Recommendation #2’s statement projects to “reduce risk from adopting under-utilized new technologies”, and he questioned whether the Council wants to reduce their risk if they spend money on technologies. Member Hayes noted the thinking was that financial risk is a disincentive to people being innovative by adopting technologies that might not be proven. They were trying to say, is there anything we can do to help incentivize companies to be willing to take the risk associated with the more aggressive technologies. He suggested deleting “reduce risk” and replacing it with “provide incentives.”

Ms. Roggenkamp noted that the District funds projects for advance technologies demonstration projects to show new technologies can work. However, currently the District does not have funding sources for industrial uses. If the District should, it might be interested in the same kind of thing.

Mr. Hayes referred to Recommendation phrasing for numbers 2, 3, 4 and 5, and questioned what the Council was suggesting the District do as, as it takes billions to fund carbon sequestration work. The same might be true of helping fund the development of new technologies. He said he liked Recommendation #4's first sentence of encouraging and monitoring R&D on alternative motor vehicle fuels by ARB and other agencies, but questioned whether funding it was realistic.

District Counsel Bunger reminded the Council that fees can only be used to fund stationary source related regulatory activities.

Dr. Bornstein suggested rewording of Recommendation #3's last sentence, stating that if something new comes on line, the District cannot be expected to adopt each new innovation. He suggested removing the last sentence, stating that capital equipment is not the District's business. Secretary Hayes stated that the District can incentivize these things by the definitions for Best Available Control Technology (BACT), which will provide some teeth in the desire to provide some new technologies. Mr. Hayes asked to maintain the last sentence, and indicated he believed it was important.

Mr. Sandler referred to Recommendation #2; "grants should be available for demonstration projects to provide incentives to industry", and he suggested adding a period and add "Along side increasing a carbon price signal, this would". He said in the absence of a carbon price, a grant will get one demonstration project built, and you have to have the carbon price to move the entire industry to a new way of doing business. Dr. Martin asked to end the sentence at "technologies" and add, "Grants should be targeted..."

Member Bard suggested moving the last sentence of Recommendation #3 to the Discussion section.

Member Hayes suggested all recommendations start with "BAAQMD should encourage", and members agreed.

Recommendation #4:

In discussing Recommendation #4, Secretary Hayes said for the refining industry, it is not just the GHG emissions from facility operations which are the biggest part of the carbon impact that carbon will have on their operations. It is the fuels piece as the third leg of the three-legged stool. To the extent that fuels changes, which will be mandated by the Governor or other agencies, this will have implications for permitting, and he thinks it is important for the District to monitor progress on the fuels side.

Dr. Bornstein referred to the last sentence and said it is not the role that is not important; it is changes in the refining industry that can reduce important reductions. He recommended changes to the second and third sentences to remove: "three legged stool including", "the role of" and "are" and add "can produce" after the word "equipment". He also asked to replace "monitor" with "track".

Member Ruel referred to Recommendation #4 and said after hearing from WSPA, he thinks the future of fuels cannot be petroleum-based, which should be made more clearly. He did not believe the statement should be how to fix the refining industry. The other half of the battle is what to do without petroleum, as it is not sustainable to just be more efficient in how we produce petroleum. While the District cannot regulate mobile sources, refineries or production plants for alternative fuels could stationary sources, a facility which the District could permit. He suggested reframing the recommendation to embrace alternative fuels and indicate that changes to the petroleum industry and refining are not going to be enough.

Chairperson Bramlett clarified that the Council has covered transportation, will be covering carbon sequestration and capture in the near future, and he suggested putting that context into this report so the three-legged stool can be shown in other ways.

Ms. Bard stated that Recommendation #4 brings up general monitoring and encouragement of good policy and development of tools the District can use going forward. She suggested monitoring and researching power plants and refineries' best practices that are transforming themselves.

Recommendation #5:

Dr. Holtzclaw said the big polluters of coal, petroleum and even natural gas have huge financial incentives to put big money into carbon capture and sequestration or they will go out of business, and members agreed that funding it was not the District's role.

Dr. Bornstein questioned what areas the District wants them to expand into rather than make fewer restrictions. Regarding funding, he suggested targeting research and change "fewer" to "expanded". Dr. Holtzclaw suggested the District act in a role to support any good legislation. Ms. Roggenkamp noted it would be a significant departure for the District to fund fundamental research. The District funds best practices research, but the District is not a research agency.

Member Hayes noted there was a lot of discussion regarding Recommendation #5, agrees the District does not have the money, and he would favor rewording the recommendation to: "BAAQMD should encourage and monitor development in carbon capture and sequestration and facilitate permitting of associated infrastructure as appropriate." He noted the many life-changing events needed in the future, and he questioned whether a recommendation be that the District should continue in its efforts to define the place where large ticket issues intersect with the District's authority and mission. Dr. Bornstein believed this could serve as an introduction.

Mr. Bunger noted the District does monitor and track new technologies and advancements in control technologies and impose those in permitting systems as new sources come on line or are brought up to date.

Member Bard suggested removing Recommendation #5 and consider it during the carbon sequestration discussion in June, and members agreed.

Dr. Huang noted the scarcity of funding and that three of the seven recommendations require significant funding. He asked to narrow them down to no more than one or two.

Member Sandler said his understanding is that there are different types of sequestration; industrial capture and agricultural soil carbon sequestration. He was not sure if this was on the agenda. He was more interested in the agricultural soil sequestration, or bio char, and he was more worried about the industrial sequestration because you may end up with large carbon storage facilities in the impacted communities next to refineries which would just be one more climate gap. If we are looking at assisting in increasing this technology, we should be mindful of that potential disproportionate impact if this is what we end up with.

Dr. Bornstein agreed with Dr. Huang's suggestion, but he would leave all three recommendations in and let the Board of Directors decide, knowing that realistically, not all three can be funded, which could be part of the preamble.

Recommendation #6:

Dr. Holtzclaw suggested holding off on this recommendation for the June meeting recommendation on carbon capture and sequestration.

Recommendation #7:

Dr. Bornstein suggested removing the recommendation, noting that the paragraph serves as a recommendation to the Council and not to the Board. Member Brazil questioned the reason three years was included, and group authors believed it was a reasonable period of time to revisit the topic. Ms. Roggenkamp suggested making the general point that advances in this area are happening rapidly and worthy of re-examination in the near term.

Ms. Bard agreed and suggested adding, “recognizing the District’s leadership in Clean Air and regulatory policy and the ability to adopt technologies of the rapidly changing advancements.” Secretary Hayes suggested there be a preamble to the recommendations, which should indicate and acknowledge that the District has been out in front on all issues, and members agreed.

Chairperson Bramlett said most recommendations all exemplified a current inadequacy to actually achieve any of the goals, and he suggested adding that context to the item, as well.

Ms. Roggenkamp indicated that this is a hard area to look at, that the District likes to look to the future where there is not a clear path and appreciated the discussion. She knows that what is in place now is not going to get us to 2050, and we are trying to figure out paths to increase the thinking of people to get there.

Chairperson Bramlett reported that comments were received from Dr. Vura-Weis that he would pass onto author Kurucz. The Council agreed that any members wanting to submit comments to the group should do so expeditiously, or by next week. The group will review comments and submit the final draft a week prior to finalization of the May Advisory Council packet.

Chairperson Bramlett noted that the Council had also voiced interest in a field trip and members discussed opening the May meeting to finalize the report and then hold a field trip. However, they decided against it given logistics and time constraints.

Vice Chairperson Blonski discussed involvement of the Richmond neighborhood councils and local representatives taking field trips to visit Chevron and Simms Metals. He indicated how valuable they were for the group and encouraged the scheduling of a future field trip. Dr. Holtzclaw suggested considering a visit to a solar or wind generating facility.

3. Discussion of Advisory Council Members attending the Annual Air & Waste Management Association (AWMA) meeting in June

Chairperson Bramlett reported that three Advisory Council Members have been approved to attend the Air and Waste Management Association Conference. He is not able to attend, and stated that he would consider previous attendance in determining the third member’s attendance. Ms. Roggenkamp noted that some District staff will be presenting papers and speaking, as well as Advisory Council Members. Dr. Bornstein and Mr. Brazil voiced interest in attending the conference.

OTHER BUSINESS

4. Council Member Comments/Other Business

Ms. Bard announced that on April 22, 2010, the League of California Cities Board of Directors will be voting on a motion forwarded by four committees to rescind AB 32 and SB 375. She distributed a list of members of the Board, member cities, and original supporters of AB 32. She encouraged members to contact the League Board and urge a neutral position.

5. Time and Place of Next Meeting - 9:00 a.m. – 12:00 noon, Wednesday, May 12, 2010, 939 Ellis Street, San Francisco, CA 94109.

6. Adjournment: The meeting adjourned at 11:05 a.m.

/s/ Lisa Harper

Lisa Harper
Clerk of the Boards

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

APPROVED MINUTES

Advisory Council Regular Meeting
9:00 a.m., Wednesday, May 12, 2010

CALL TO ORDER

Opening Comment: Chairperson Bramlett called the meeting to order at 9:00 a.m.

Roll Call: Chairperson Jeffrey Bramlett, M.S., Vice Chairperson Ken Blonski, M.S.; Secretary Stan Hayes; Council Members Jennifer Bard, Louise Bedsworth, Ph.D., Benjamin Bolles, Robert Bornstein, Ph.D., Harold Brazil, Alexandra Desautels, John Holtzclaw, Ph.D., Gary Lucks, JD, CPEA, REA I, Debbie Mytels, Michael Sandler, and Jonathan Ruel

Absent: Council Members Robert Huang, Ph.D., Kraig Kurucz, M.S., Jennifer Rosanna Lerma, P.E., Jane Martin, Dr.Ph.D., Kendall Oku, and Dorothy Vura-Weis, M.D., M.P.H.

Public Comment Period: There were no public comments.

Consent Calendar:

1. Approval of Minutes of the April 14, 2010 Advisory Council Meeting

Dr. Holtzclaw requested amendment to page 6 of the minutes, Recommendation number 6, to read, "...on carbon capture."

Advisory Council Action: Member Holtzclaw made a motion to approve the minutes of April 14, 2010, as amended; Member Hayes seconded the motion; unanimously carried without objection.

DISCUSSION:

2. Continued discussion of draft report on the Advisory Council's March 10, 2010 Meeting on California's 2050 GHG emission reduction target of 80% below 1990 levels – Industrial Sector

Chairperson Bramlett thanked Advisory Council Members and members of the working group for their efforts in refining the Draft Report.

Mr. Hayes echoed Chairperson Bramlett, and suggested the Council address the Draft Report section by section to determine further revisions and/or corrections.

Council Members discussed and considered revision to areas in the Draft Report regarding public health, regulatory policy, industrial sector impacts, impacts in low income and communities of color, cap and trade, carbon pricing, current and proposed legislation, incentivizing sustainability and performance.

After lengthy discussion and revisions made to the Draft Report during the meeting, support was received from those present to finalize the Draft Report. Direction was provided to forward the Final Report with

attached Minutes from the Advisory Council meetings of April 14, 2010 and May 12, 2010 to the Board of Directors.

Council Action: Dr. Holtclaw made a motion to approve the Final Report from the March 10, 2010 Advisory Council Meeting on California's 2050 GHG Emission Reduction Target – Industrial Sector; Dr. Bedsworth seconded the motion; which carried unanimously without objection.

OTHER BUSINESS

3. Council Member Comments/Other Business

Ms. Bard referred to the current initiative to roll back AB32 and requested the Advisory Council consider adoption of a resolution to support the Clean Cars regulation, AB32 and SB 375. She spoke on the American Lung Association's efforts to visit all Bay Area cities and counties to request support of the resolution.

Deputy APCO Jean Roggenkamp responded that the Board of Directors' Legislative Committee considers and takes position on a number of bills, for recommendation to the Board of Directors. The Board of Directors has taken positions on a number of efforts to date focusing on GHG reductions and climate protection goals. She suggested the Advisory Council defer the matter to a time after the Initiative has secured the required number of signatures for qualification.

Board Chairperson, Brad Wagenknecht, thanked the Advisory Council for their significant efforts and advice in addressing the GHG emission reduction target. He stated that he has attended a number of Advisory Council presentations and believes a large portion of the Board of Directors' work plan will involve such topics. He agreed the Board's Legislative Committee receives staff briefs and considers support for, and opposition to, legislative bills, and again commended the Advisory Council for their efforts.

Chairperson Bramlett and Gary Kendall updated the Advisory Council on tentative speakers for the June 9, 2010 meeting, which will focus on geologic sequestration, safety, leakage seismicity, new technology for carbon capture using membranes, and CARB's cap and trade regulation. Staff is also attempting to secure a fourth speaker on Mineralization via Aqueous Precipitation (MAP) technology, which absorbs CO2 from power plants and turns it into construction material. Council Members reiterated the need for speakers to address questions posed of them ahead of the meeting.

4. Time and Place of Next Meeting - 9:00 a.m. – 12:00 noon, Wednesday, June 9, 2010, 939 Ellis Street, San Francisco, CA 94109.

5. Adjournment: The meeting adjourned at 11:37 a.m.

/s/ Lisa Harper

Lisa Harper
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 10, 2010

Re: Recommendation that the Board of Directors Reserve up to \$5 Million in
Mobile Source Incentive Funds in Support of Shore-Power Projects at Bay
Area Ports

RECOMMENDED ACTION:

Recommend the Board of Directors:

- Reserve up to \$5 million in Mobile Source Incentive Funds (MSIF) in support of shore-power projects at Bay Area ports.
- Authorize the Executive Officer/APCO to execute all the necessary solicitations, contracts and agreements to expend these funds on shore-power projects at Bay Area ports.

BACKGROUND

In November 2006, California voters authorized the Legislature to appropriate \$1 billion in bond funding to quickly reduce air pollution emissions and health risk from freight movement along California's priority trade corridors. On February 28, 2008, The California Air Resources Board (ARB) approved an allocation of \$140 million from projected bond sales to the Bay Area trade corridor (approximately \$35 million per year over the next four years.)

On April 15, 2010, the ARB issued a Notice of Funding Availability for I-Bond Years 2 and 3 (combined) funding. Staff held a public meeting on May 6, 2010, to gather input on ideas for funding objectives for the Bay Area trade corridor for Program Year 2 and 3 of the I-Bond program. Staff also met with staff from the Port of Oakland (Port) to coordinate efforts, and discuss each agency's interests in applying for I-Bond funds. Based on these meetings, on May 11, 2010, the Air District requested \$88 million in Program Year 2 and 3 I-Bond funding (\$45 million for heavy-duty trucks, \$39.14 million for shore power projects, and \$3.86 million for locomotive projects) and on June 2, 2010, the Air District's Board of Directors (Board) adopted a resolution in support of this application. As part of this report, staff will update the Board on the status of that application and will recommend a reservation of MSIF funding that supports the emissions reductions goals of the Air District's original application in the absence of full I-Bond funding.

DISCUSSION

As part of its preparation to award I-Bond funding for Program Years 2 and 3 on June 24-25, 2010, ARB staff recently published its recommended award amounts for all statewide trade corridors. As part of these recommendations, the Bay Area trade corridor is slated to receive \$59.5 million over the next two years, with a funding award of \$28 million becoming available immediately for disbursement this summer. The total award amount represents only 68% of the entire \$88 million application for funding submitted by the Air District. The ARB has also proportionately reduced the award amount in each funding category requested in the application. The following table represents the new proportional awards being proposed by the ARB:

Table 1 - I-Bond Application Amounts versus Proposed ARB Awards

| I-Bond Project Category | Air District Requested Amount | ARB Proposed Award |
|--------------------------------|--------------------------------------|---------------------------|
| On-road trucks | \$45 million | \$33.3 million |
| Shore-power | \$39.14 million | \$23.9 million |
| Locomotives | \$3.86 million | \$2.3 million |
| Total | \$88 million | \$59.5 million |

Additionally, ARB staff is recommending that of the \$28 million in monies that are available this year, \$20 million go towards funding emissions reductions from shore-power projects and that \$8 million go towards funding emissions reductions from on-road trucks. The reason for this recommendation is due to the complexity of shore-power projects and the long lead time necessary to ensure their successful completion. While staff has taken steps to inform the ARB of the Air District's dissatisfaction with this recommendation, it is unlikely based on competing interests throughout the state that either additional funding or a revised award will be approved.

Based on similar efforts completed by Air District staff over the past three years (shore-side power at the Port of San Francisco and the APL Terminal at the Port) is clear that shore-power projects will struggle to get completed on schedule if they are not commenced this year. However, it is also important that the Air District continue its commitment to reducing emissions from on-road trucks as these vehicles are responsible for up to 85% of the total cancer health risk in the Bay Area air basin and are the major driver of health impacts in communities along Bay Area highways.

In order to balance these interests, staff is proposing that the Board allocate an additional \$5 million in MSIF funding to shore-power projects at Bay Area ports. This equates to a \$25 million total funding pot for these projects while on-road trucks will also be targeted to receive approximately \$28 million (\$16 million in Program Year 1 I-Bond funds, \$3.5 million in Carl Moyer and MSIF program funds and \$8 million in Program Year 2 and 3 I-Bond funds) to rapidly achieve emissions reductions.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Air District receives funding for the administration of incentives under both the I-Bond and MSIF programs.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Damian Breen
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 7, 2010

Re: Final Public Hearing to Adopt Proposed Amendments to District
Regulation 3: Fees

RECOMMENDED ACTION:

Adopt staff's proposed fee amendments for Fiscal Year Ending (FYE) 2011, with an effective date of July 1, 2010, and approve an associated filing of a Notice of Exemption from the California Environmental Quality Act.

BACKGROUND

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

Staff has prepared proposed amendments to District Regulation 3 for Fiscal Year Ending (FYE) 2011 that would increase revenue to enable the District to continue to effectively implement and enforce regulatory programs for stationary sources of air pollution. The proposed amendments would increase all fees by 5 percent, with the exception of Fee Schedule P: Major Facility Review Fees, which would be increased by 10 percent. Schedule P applies to larger facilities required to have Title V Operating Permits. Existing fee revenue for Schedule P recovers less than 50 percent of associated program activity costs. Under the staff proposal, facilities subject to Schedule P would have annual permit renewal fee increases ranging from 5.3 to 8.0 percent.

DISCUSSION

The Board discussed the proposed fee amendments, and received public testimony, at the Board of Directors meeting on May 5, 2010. The Board directed staff to bring the current staff proposal back for consideration of adoption at the June 16, 2010, Board of Directors Meeting, at which the second of two required public hearings will be held. The Board also directed staff to begin the process of having an updated Cost Recovery Study completed by a contractor for use in consideration of fee amendments for FYE 2012. This Study will also address cost containment measures, and identify ways in which mitigation of cost increases can be achieved without reducing service quality.

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

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

The proposed fee amendments would increase fee revenue in FYE 2011 by approximately 5.5 percent, or \$1.6 million, from the fee revenue expected without the amendments. Even with these fee increases, the District will likely need to make modest use of its reserve funds in FYE 2011.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jeffrey Mckay



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

STAFF REPORT

PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES

JUNE 6, 2010

1. EXECUTIVE SUMMARY

District staff has prepared proposed amendments to District Regulation 3: Fees, for Fiscal Year Ending (FYE) 2011 (i.e., July 1, 2010 to June 30, 2011) that would increase revenue to enable the District to continue to effectively implement and enforce regulatory programs for stationary sources of air pollution. A recently updated Cost Recovery Study indicates that a significant cost recovery gap exists. For the most recently completed fiscal year (FYE 2009), fee revenue covered just 58 percent of direct and indirect program costs.

Reducing the cost recovery gap has become a particularly important part of the District's budgetary needs as county revenue derived from property taxes (the District's primary source of general fund revenue used to fill the cost recovery gap) is projected to remain flat or decline over the next several years. The District will also continue to implement cost containment measures to address budgetary issues associated with the general economic downturn. Even with the proposed fee increases and cost containment measures, the District will likely need to make modest use of its reserves in FYE 2011.

District staff is proposing to increase all fees by 5 percent, with the exception of Fee Schedule P: Major Facility Review Fees, which would be increased by 10 percent. Schedule P applies to larger facilities required to have either Title V or Synthetic Minor Operating Permits. Existing fee revenue for Schedule P recovers less than 50 percent of associated program activity costs. With the 10 percent increase in Schedule P fees, the annual permit renewal fees for Title V facilities would increase by an estimated average of 6.4 percent. The proposed fee amendments would increase overall District fee revenue in FYE 2011 by approximately 5.5 percent, or \$1.6 million, from fee revenue expected without the amendments.

The following additional amendments are proposed: (1) Provide a discount on permit application and/or registration fees, by an amount deemed appropriate by the Air Pollution Control Officer, for businesses that attend a District-sponsored Industry Compliance School, (2) revise the definition of "small business" by increasing the gross annual income limit from \$600,000 to \$750,000 so that more businesses qualify for a small business discount on permit application fees and hearing board fees, (3) establish a new 10 percent discount on permit application fees for businesses that have been certified under the Bay Area Green Business Program, and (4) establish a provision in Regulation 3 that allows the Air Pollution Control Officer to declare an amnesty period, during which the District may waive all or part of the penalty fees for sources that are currently operating without valid Permits to Operate and/or equipment registrations.

The proposed fee amendments would increase annual permit renewal fees for most small businesses that require District permits by under \$50. The annual permit renewal fees for the five Bay Area refineries, the District's highest fee payers, would increase by an estimated average of \$98,000.

Staff plans on having a contractor complete an updated cost recovery study for use in preparing fee amendments for FYE 2012. The last such study was completed in 2005 by the accounting firm Stonefield Josephson, Inc. (staff has updated the analysis of cost recovery each year since that Study was completed using the same methodology). The upcoming study will also focus on how District costs have been contained, and how cost increases can be mitigated without reducing the level of service provided.

2. BACKGROUND

State law authorizes the District to assess fees to generate revenue to recover the cost of District air pollution programs (i.e., the District's reasonable direct and indirect expenditures for personnel, services and supplies, and capital outlay, related to implementing and enforcing air quality programs and regulations affecting stationary sources of air pollution). The largest portion of District fees is collected under provisions that allow the District to impose permit fees sufficient to recover the full costs of programs related to permitted sources. The District is also authorized to assess fees for: (1) areawide or indirect sources of emissions which are regulated, but for which permits are not issued by the District, (2) sources subject to the requirements of the State Air Toxics Hot Spots Program (Assembly Bill [AB] 2588), and (3) activities related to the District's Hearing Board involving variances or appeals from District decisions on the issuance of permits.

The District has established, and regularly updates, a fee regulation under these authorities (District Regulation 3: Fees). For FYE 2010, 48 percent of the District's general fund operating budget is derived from fees imposed in accordance with this regulation.

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

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

In 2004, the District Board of Directors approved funding for an updated Cost Recovery Study. The accounting firm Stonefield Josephson, Inc. completed this study in March 2005 (*Bay Area Air Quality Management District Cost Recovery Study, Final Report;*

March 30, 2005). This 2005 Cost Recovery Study indicated that a significant cost recovery gap continued to exist.

For the five years following the completion of the 2005 Cost Recovery Study (i.e., FYE 2006 through FYE 2010), the District adopted fee amendments that increased overall projected fee revenue by an average of 8.9 percent per year. In order to address fee equity issues, the various fees were not all increased in a uniform manner. Rather, individual fee schedules were amended based on the magnitude of the cost recovery gap for that schedule, with the schedules with the more significant cost recovery gaps receiving more significant fee increases. In FYE 2009, the District's fee amendments also included a new greenhouse gas (GHG) fee schedule. The GHG fee schedule recovers costs from stationary source activities related to the District's Climate Protection Program.

District staff has recently completed an updated analysis of cost recovery (*Bay Area Air Quality Management District 2010 Cost Recovery Study, March 2010*) using the methodology established by Stonefield Josephson, Inc. in their 2005 study. This 2010 Cost Recovery Study indicates that the cost recovery gap was \$19 million in FYE 2009, with fee revenue covering 58 percent of program costs.

3. PROPOSED FEE AMENDMENTS FOR FYE 2011

3.1 OVERVIEW OF PROPOSED AMENDMENTS

For FYE 2011, District staff has developed proposed amendments to Regulation 3 that would increase fee revenue by approximately 5.5 percent, or \$1.6 million, from fee revenue expected without the amendments. It should be noted, however, that the fee amendments would increase revenue by only 1.5 percent, or \$445,000, from fee revenue projected in the FYE 2010 budget. Fee revenue in FYE 2010 is expected to fall short of projections due to the prolonged economic downturn.

The staff proposal would increase all fees by 5 percent with the exception of Fee Schedule P: Major Facility Review Fees, which would be increased by 10 percent. Schedule P applies to larger, more complex, facilities that are required to have Title V or Synthetic Minor Operating Permits. The 2010 Cost Recovery Study indicates that Schedule P revenue recovered just 46 percent of the associated program activity costs, representing a deficit of about \$1.5 million.

Schedule P is one of a number of fee schedules that a Title V facility is subject to upon annual permit renewal. Based on the staff proposal, the overall permit renewal fees for Title V facilities are expected to increase by an average of 6.4 percent (over a range of 5.3 to 8.0 percent, depending on the specific permitted equipment and emissions at the facility).

Title V facilities generate substantial additional work for District staff relative to non-Title V facilities. Staff must issue, revise, and renew, detailed federal operating permits and Statements of Basis for Title V facilities. Nearly all Title V permit actions also require

public noticing and comment periods, and some result in public meetings and/or hearings. Title V facilities are also subject to more stringent reporting requirements than other facilities, resulting in additional compliance reports that need to be reviewed.

District staff's proposed fee increases for FYE 2011 are lower, and more uniform, than the fee increases that have been adopted over the last 5 years. The fee increases will not be adequate, even with implementation of cost containment measures, to produce a balanced District budget for FYE 2011, and modest use of reserve accounts will likely be needed. More significant fee increases are not believed to be appropriate at this time given the current economic downturn.

The following additional amendments are proposed: (1) Provide a discount on permit application and/or registration fees, by an amount deemed appropriate by the Air Pollution Control Officer (APCO), for businesses that attend a District-sponsored Industry Compliance School, (2) revise the definition of "small business" by increasing the gross annual income limit from \$600,000 to \$750,000 so that more businesses qualify for a small business discount on permit application fees and hearing board fees, (3) establish a new 10 percent discount on permit application fees for businesses that have been certified under the Bay Area Green Business Program, and (4) establish a provision in Regulation 3 that allows the APCO to declare an amnesty period, during which the District may waive all or part of the penalty fees for sources that are currently operating without valid Permits to Operate and/or equipment registrations.

Projected fee revenue for FYE 2011 is provided in Table 1, based on District staff's proposed amendments to Regulation 3. These figures are approximations, as actual fee revenue depends on a variety of factors, some of which are difficult to predict (e.g., year-to-year fluctuations in industrial activities).

Table 1. Projected Fee Revenue for FYE 2011

| | |
|--|---------------------|
| Permit Fees | |
| New & Modified Permit Fees, Permit to Operate Renewal Fees, Title V Fees | \$27,724,000 |
| Other Fees | |
| AB 2588 Fees (includes State pass-through) | \$676,000 |
| Asbestos, and Soil Excavation, Notification Fees | \$1,582,000 |
| Registration Fees (includes an estimated \$350,000 in PERP fees from CARB) | \$800,000 |
| Hearing Board Fees | \$22,000 |
| Total | \$30,804,000 |

3.2 PROPOSED RULE AMENDMENTS

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

- Index Section 3-240: Biogenic Carbon Dioxide

The term “Biogenic Carbon Dioxide” was added as Section 3-240 in 2008, but was inadvertently omitted from the Regulation’s index. The proposed amendments would add this section to the index.

- Section 3-209: Small Business

The definition of “Small Business” would be modified to increase the gross annual income limit from \$600,000 to \$750,000. This would increase the number of facilities that are eligible for Small Business Discounts on permit applications under Section 3-302.1 (discount of 50 percent), and Hearing Board fees under Schedule A (discount of 50 percent or more, depending on the applicable fee).

The \$750,000 limit was chosen based on the U.S. Small Business Administration (SBA) size standards. The SBA provides size standards by industry type, however, while the District provides one threshold across all industries. The \$750,000 value is the lowest size standard provided by the SBA, and it is believed to be appropriate for use in Regulation 3.

- Section 3-241: Green Business

The term “Green Business” would be added to the definitions under Section 3-241. A new Green Business Discount is proposed to be added as Section 3-302.6.

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

Permit application filing fees would be increased by 5 percent (rounded to the nearest whole dollar), from \$337 to \$354.

A new provision is proposed that would allow the APCO to reduce the permit fees for new and modified sources by an amount deemed appropriate if the owner or operator of the source attends an Industry Compliance School sponsored by the District. (A similar provision is proposed to be added in Section 3-331 for registration fees). The District has recently completed a pilot program for mobile coaters that provided a “credit” to affected businesses for attending a school held by staff (that provided information about regulatory requirements) and registering their operations with the District. Based on the success of this pilot program, District staff believes that this concept should be applied to other categories of sources (e.g., small printers and boilers). Staff is proposing to

establish this credit on a case-by-case basis for each source category based on consideration of the amount that would provide an adequate financial incentive for attending the school, while not significantly impacting fee revenue.

A new Section 3-302.6 is also proposed that would create a Green Business Discount on permit application fees for facilities that have been certified under the Bay Area Green Business Program. The Association of Bay Area Governments (ABAG) coordinates this Program, which is implemented by Green Business Coordinators in each of the nine Bay Area counties. The regional and local programs are funded by Bay Area counties and their partners, including cities, regional and state agencies, utilities, special districts and nonprofit organizations. The counties collaborate to develop regional standards that businesses must meet to qualify. These include complying with relevant regulations and implementing a specified number of measures to conserve energy and water, and prevent waste and pollution. More than 1,800 businesses and public agencies have been certified under the Program since 1997.

The Green Business Discount will be provided on permit applications for businesses that have already been certified under the Program. Since compliance with applicable environmental regulations, including obtaining necessary permits, is needed to be certified, the new fee discount would not be available to businesses that are applying for their initial District permits prior to certification. Any subsequent permit applications for new and modified sources from a certified Green Business, however, would be eligible for the discount.

A discount of 10 percent is considered appropriate for the Green Business Discount. Some Green Businesses may also qualify for the 50 percent Small Business Discount, resulting in a total discount of 60 percent on filing fees, initial fees, and risk screening fees.

- Section 3-309: Duplicate Permit

The proposed amendment for Section 3-309 is a 5 percent increase (rounded to the nearest whole dollar) in the fee for a duplicate Permit to Operate, from \$69 to \$72 per permit.

- Section 3-311: Banking

The proposed amendment for Section 3-311 is a 5 percent increase in the filing fee for banking applications (rounded to the nearest whole dollar), from \$337 to \$354.

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

No change in regulatory language is proposed for Section 3-312.1, which requires an additional annual fee equal to 15 percent of the facility's Permit to Operate fee for facilities that elect to use an Alternative Compliance Plan (ACP) for compliance with Regulation 8, or Regulation 2, Rule 2. These ACP fees would increase along with the

proposed 5 percent increase in Permit to Operate renewal fees for sources in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K.

The proposed amendment for Section 3-312.2 is a 5 percent increase in the annual fee (rounded to the nearest whole dollar) for a facility that elects to use an Alternative Compliance Plan (ACP) contained in Regulation 2, Rule 9: Interchangeable Emission Reduction Credits. The fee for each source included in the ACP would be increased from \$850 to \$893, and the maximum fee would be increased from to \$8,509 to \$8,934.

- Section 3-318: Public Notice Fees, Schools

The proposed amendment for Section 3-318 is a 5 percent increase in the fee (rounded to the nearest whole dollar) for the preparation and distribution of public notices required under Health and Safety Code Section 42301.6(b) for new/modified sources that would be located in proximity to a school site. The existing fee of \$2000, which is collected up-front before notification is initiated, would be increased from \$2000 to \$2100. It should be noted that, under Section 3-318.3, any portion of this fee that is not used for preparation and distribution of public notices is refunded to the applicant.

- Section 3-320: Toxic Inventory Fees

The maximum toxic inventory fee for a small business specified in Section 3-320.1 would be increased by 5 percent (rounded to the nearest whole dollar) from \$7,774 to \$8,131.

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

The processing fees for renewal of Permits to Operate specified in Sections 3-327.1 through 3-327.6 would be increased by 5 percent (rounded to the nearest whole dollar).

- Section 3-329: Fee for Risk Screening

No change in regulatory language is proposed for Section 3-329: Fee for Risk Screening. Increases in risk screening fees are instead specified in Schedules B, C, D, E, F, G-1, G-2, G-3, G-4, G-5, H, I, and K. For each applicable fee schedule, the base fee for each application that requires a Health Risk Screening Analysis would be increased by 5 percent from \$337 to \$354. The portion of the risk screening fee that is based on the type of source involved would also be increased by 5 percent.

- Section 3-331: Registration Fees

A new provision has been added that would allow the APCO to reduce registration fees by an amount deemed appropriate if the owner or operator of the source attends an Industry Compliance School sponsored by the District. A similar provision is proposed for permit fees, as was previously described.

- Section 3-417: Temporary Amnesty for Unpermitted and Unregistered Sources

A new Section 3-417 is proposed that allows the APCO to declare an amnesty period, during which the District may waive all or part of the penalty fees for sources that are currently operating without valid Permits to Operate and/or equipment registrations. A similar provision already exists in the District's permit rule under Section 2-1-416: Temporary Amnesty for Unpermitted Sources. Regulation 3 is believed to be the more appropriate place in the District's regulations for this provision, and Section 2-1-416 will be considered for deletion during upcoming amendments to Regulation 2, Rule 1. The new Section 3-417 also updates terms to be consistent with Regulation 3, and extends the applicability of amnesty to include equipment registrations.

- Fee Schedules

All fees contained in each existing fee schedule in Regulation 3 would be increased by 5 percent, except for Schedule P, which would be increased by 10 percent.

Fees for Schedule N: Toxic Inventory Fees, are calculated by a formula that includes the fee revenue that is to be collected for District purposes, as well as the fee revenue that is to be passed through to the State to recover State agency costs related to the Air Toxics Hot Spots Program. The District portion of variable F_T , the total amount of fees to be collected, used to calculate fees for Schedule N is proposed to be increased by 5 percent. This change does not require any modifications to the language of Schedule N.

In addition, Schedule N is being updated to use Cancer Potency Factors instead of Unit Risk Factors. Cal/EPA's Office of Health Hazard Assessment has revised the method of calculating cancer risk, using Cancer Potency Factors (based on dosage) instead of Unit Risk Factors (based on concentrations). The change has been made revenue neutral by incorporating a new normalizing coefficient (28.6) that was derived considering appropriate unit conversions as follows.

$$\text{URF (m}^3/\mu\text{g)} = \text{CPF (kg-day/mg)} * (20 \text{ m}^3/\text{day}) / (70 \text{ kg}) (1000 \mu\text{g/mg})$$

$$\text{URF} = 2.86 \text{ E-4 CPF}$$

$$100,000 * \text{URF} = 28.6 * \text{CPF}$$

Revised Schedule N also clarifies that fees are based on Cancer Potency Factors and non-cancer chronic Reference Exposure Levels for the inhalation pathway only. This is not a change in practice; the formerly used Unit Risk Factors were exclusively used for inhalation exposure.

4. PROJECTED FEE REVENUE AND COSTS OF PROGRAM ACTIVITIES

With the proposed amendments, the District's projected fee revenue for permitted sources for FYE 2011 is \$27.7 million. The 2010 Cost Recovery Study indicated that,

for FYE 2009, the District's program activity costs for permitted sources were \$41.3 million.

With the proposed amendments, the District's projected fee revenue for non-permitted sources for FYE 2011 is \$3.1 million (this includes revenue from Schedule A: Hearing Board Fees, Schedule L: Asbestos Operations, Schedule N: Toxic Inventory Fees, Schedule Q: Excavation of Contaminated Soil and Removal of Underground Storage Tanks, Schedule R: Equipment Registration Fees, Schedule S: Naturally Occurring Asbestos Operations, and Schedule U: Indirect Source Review Fees, and \$350,000 in estimated fee revenue that the District expects to receive from CARB under their Portable Equipment Registration Program (PERP). The 2010 Cost Recovery Study indicated that, for FYE 2009, the District's program activity costs for non-permitted sources subject to fees were \$4.1 million.

5. STATUTORY AUTHORITY FOR PROPOSED FEE INCREASES

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

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

H&S Code section 44380(a) authorizes air districts to adopt a fee schedule that recovers the costs to the air district and the State of the Air Toxics Hot Spots Program (AB 2588). The section provides the authority for the District to collect toxic inventory fees under Schedule N.

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

The proposed fee amendments are in accordance with all applicable authorities

provided in the California Health and Safety Code. Based on the results of the 2010 Cost Recovery Study, permit fee revenue after adoption of the proposed amendments would still be well below the District's direct and indirect program activity costs associated with air quality programs covering permitted sources. Similarly, fee revenue for non-permitted areawide sources would be below the District's costs of programs related to these sources. Toxic Inventory fee revenue would be below the District's costs of implementing the AB 2588 program. Hearing Board fee revenue would be below the District's program activity costs associated with Hearing Board activities related to variances and permit appeals. (Note that fee revenue has not been projected for FYE 2011 for Schedule U: Indirect Source Review Fees. This fee schedule will not be effective until the adoption of a District Indirect Source Review rule, which is not expected to occur until near the end of FYE 2011). Fee increases for authorities to construct and permits to operate would be less than 15 percent per year.

6. ASSOCIATED IMPACTS AND OTHER RULE DEVELOPMENT REQUIREMENTS

6.1 EMISSIONS IMPACTS

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

6.2 ECONOMIC IMPACTS

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

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

The financial impact of the proposed fee amendments on small businesses is expected to be minor. Many small businesses operate only one or two permitted sources, and generally pay only the minimum permit renewal fees. Increases in annual permit renewal fees for most small businesses (e.g., dry cleaners, auto body shops, and office buildings with a backup generator) would be less than \$50, with the exception of gas stations, which would increase by an average of about \$100.

For reference, District permit fees are generally well below that of the South Coast AQMD, the other major metropolitan air district in the state with a cost of living similar to that of the Bay Area. A comparison of permit renewal fees recently completed by District staff for 12 different categories of sources indicated that South Coast AQMD fees are approximately 2.6 times higher than District fees, on average.

The annual permit renewal fees for Title V facilities would increase by an estimated 5.3 to 8.0 percent, with the average increase being 6.4 percent. Due to the significant differences in size and complexity of these facilities, annual permit fee increases for Title V facilities would cover a considerable range, from about \$100 to \$135,000. The annual permit renewal fees for the five Bay Area refineries, the District's highest fee payers, would increase by an estimated average of 5.8 percent, or \$98,000.

District staff is sympathetic to businesses that are impacted by the current economic downturn, but feel that the additional fee revenue is needed to continue the District's core regulatory programs and other air quality initiatives (even with these fee increases, and cost containment measures, the District will likely need to draw on its reserve accounts in FYE 2011 to cover expenses). In general, District fee increases are expected to have a minor financial impact on businesses relative to other factors (e.g., the costs of property and labor).

6.3 ENVIRONMENTAL IMPACTS

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

Section 40727.2 of the H&S Code imposes requirements on the adoption, amendment, or repeal of air district regulations. It requires an air district to identify existing federal and air district air pollution control requirements for the equipment or source type affected by the proposed change in air district rules. The air district must then note any differences between these existing requirements and the requirements imposed by the proposed change. This fee proposal does not impose a new standard, make an existing standard more stringent, or impose new or more stringent administrative requirements. Therefore, section 40727.2 of the H&S Code does not apply.

6.4 STATUTORY FINDINGS

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

amendments to Regulation 3:

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

7. RULE DEVELOPMENT PROCESS

On January 29, 2010, the District issued a notice for a public workshop to discuss with interested parties an initial proposal to increase District fees. Distribution of this notice included all District-permitted and registered facilities, asbestos contractors, and a number of other potentially interested stakeholders. The notice was also posted on the District website.

A public workshop was held on February 22, 2010. Fifteen members of the public attended the workshop. On March 24, 2010, District staff provided a briefing on the proposed amendments to the District Board of Directors' Budget and Finance Committee. A Public Hearing Notice was issued on April 2, 2010.

A public hearing to accept testimony on the proposed amendments was held on May 5, 2010. At this meeting, the District's governing board directed staff to bring the current staff proposal back for consideration of adoption at the second of two required public hearings. The Board also directed staff to have a contractor prepare an updated Cost Recovery Study for use in preparing fee amendments for FYE 2012.

A second public hearing has been scheduled for June 16, 2010, to consider adoption of the proposed amendments. If adopted, the amendments would be made effective on July 1, 2010.

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

8. PUBLIC COMMENTS

As of the date of this report, two sets of written comments have been received by the District on the fee proposal as follows: (1) William J. Quinn of California Council for Environmental and Economic Balance (CCEEB), and (2) Guy Bjerke of the Western States Petroleum Association (WSPA). Three additional comments were provided orally, either at the public workshop or by telephone call. These included the owners of two auto body shops and one dry cleaner. A summary of the comments received, and District staff responses to these comments, follows.

CCEEB Comments: The commenter indicates that his organization does not support the fee proposal, and does not understand the justification for the 10 percent fee increase for Title V facilities. He indicates that all businesses are in a very difficult economic period, not simply small businesses. He indicates that his organization can support limiting fee increases to 5 percent for all categories. The commenter also reiterated these comments at testimony provided at the public hearing held on May 5, 2010.

Response: District staff acknowledges the difficulties that many businesses are having in the economic downturn, but believe that the proposed fee increases are needed to maintain core regulatory programs.

It is important to note that the proposed 10 percent increase in fees under Schedule P will not result in a 10 percent increase in annual permit renewal fees for any Title V facility. Schedule P is one of a number of District fee schedules that apply to Title V facilities. The staff proposal would increase annual permit fees for Title V facilities by an average of 6.4 percent.

The reason that staff has proposed a 10 percent increase in Schedule P Title V fees, rather than the 5 percent increase proposed for all other fees, is that Schedule P is under-collecting by a substantial amount relative to the point of full cost recovery. The 2010 Cost Recovery Study indicates that fee revenue from Schedule P covered just 46 percent of the associated program activity costs, representing a deficit of about \$1.5 million. The staff proposal will increase fee revenue from the schedule by approximately \$300,000.

WSPA Comments: The commenter indicates that he is concerned about the fundamental unfairness of the District's fee structure and how the fees the District charges appear to remain disconnected from the level of service provided to the fee-paying customer. He indicates that WSPA members have reported that, over the past five years, their District fees have increased by an average of 70 percent while at the same time District staff time devoted to their issues has not. The commenter urges the District to establish a real nexus between fees charged and the services provided, and make a similar commitment to containing costs.

Response: Existing permit fee revenue falls well short of recovering the District's program activity costs. Fee increases that have been adopted over the past five years have been needed due to increases in program costs resulting from inflation and other factors, and to reduce the cost recovery gap so that a greater percentage of the District's county property tax revenue can be used for other initiatives and programs that improve air quality but that do not have a dedicated funding source. It is therefore not reasonable to expect that the "level-of-service" provided by District staff will increase in proportion to fee increases.

The District has implemented a number of measures to contain costs, including reducing expenditures on services and supplies, and maintaining vacant staff positions. The District has also implemented projects to increase the efficiency of operations. One major project that has been underway for several years, and that is scheduled to be implemented in the next fiscal year, is the Production System project. This project is expected to further increase efficiencies of operations, and result in reductions in permit evaluation time periods.

Staff plans on having a contractor complete an updated cost recovery study for use in preparing fee amendments for FYE 2012. The last such study was completed in 2005 by the accounting firm Stonefield Josephson, Inc. (staff has updated the analysis of cost recovery each year since that Study was completed using the same methodology). The upcoming study will also focus on how District costs have been contained, and how cost increases can be mitigated without reducing the level of service provided. As was done for the 2005 Study, a stakeholder Steering Committee will be convened to provide input in the preparation of the updated Cost Recovery Study.

Additional Comments: Two auto body shop owners, and one dry cleaner owner, indicated that fees should not be increased because of the economic downturn. All three commenters indicated that their income had been significantly reduced due to business conditions.

Response: District staff is sympathetic to businesses that are impacted by the current economic downturn, but feel that fee increases are needed to continue the District's core regulatory programs and other air quality initiatives. Even with these fee increases, and cost containment measures, the District will likely need to draw on its reserve accounts in FYE 2011 to cover expenses. In general, District fee increases are expected to have a minor financial impact on businesses relative to other factors. The increase in annual permit fees for many small businesses would be less than \$50.



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

STAFF REPORT

PROPOSED AMENDMENTS TO BAAQMD REGULATION 3: FEES

JUNE 6, 2010

APPENDIX A PROPOSED REGULATORY LANGUAGE

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FEES
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- 3-106 Deleted December 2, 1998
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REGULATION 3 FEES

(Adopted June 18, 1980)

3-100 GENERAL

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

(Amended 7/6/83; 11/2/83; 2/21/90; 12/16/92; 8/2/95; 12/2/98; 5/21/03; 5/21/08; 5/20/09)

3-102 Deleted July 12, 1989

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

(Amended 6/4/86; 7/1/98; 6/7/00; 5/21/08)

3-104 Deleted August 2, 1995

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

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

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

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

3-106 Deleted December 2, 1998

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

(Adopted June 7, 2000)

3-200 DEFINITIONS

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

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

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

(Amended February 20, 1985)

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

- (Amended June 4, 1986)
- 3-204 Initial Fee:** The fee required for each new or modified source based on the type and size of the source. The fee is applicable to new and modified sources seeking to obtain an authority to construct. Operation of a new or modified source is not allowed until the permit to operate fee is paid.
- (Amended June 4, 1986)
- 3-205 Authority to Construct:** Written authorization from the APCO, pursuant to Section 2-1-301, for a source to be constructed or modified or for a source whose emissions will be reduced by the construction or modification of an abatement device.
- (Amended June 4, 1986)
- 3-206 Modification:** See Section 1-217 of Regulation 1.
- 3-207 Permit to Operate Fee:** The fee required for the annual renewal of a permit to operate or for the first year of operation (or prorated portion thereof) of a new or modified source which received an authority to construct.
- (Amended 6/4/86; 7/15/87; 12/2/98; 6/7/00)
- 3-208 Deleted June 4, 1986**
- 3-209 Small Business:** A business with no more than 10 employees and gross annual income of no more than ~~\$600,000~~\$750,000 that is not an affiliate of a non-small business.
- (Amended 6/4/86; 6/6/90; 6/7/00; 6/15/05)
- 3-210 Solvent Evaporating Source:** Any source utilizing organic solvent, as part of a process in which evaporation of the solvent is a necessary step. Such processes include, but are not limited to, solvent cleaning operations, painting and surface coating, rotogravure coating and printing, flexographic printing, adhesive laminating, etc. Manufacture or mixing of solvents or surface coatings is not included.
- (Amended July 3, 1991)
- 3-211 Source:** See Section 1-227 of Regulation 1.
- 3-212 Deleted August 2, 1995**
- 3-213 Major Stationary Source:** For the purpose of Schedule M, a major stationary source shall be any District permitted plant, building, structure, stationary facility or group of facilities under the same ownership, leasehold, or operator which, in the base calendar year, emitted to the atmosphere organic compounds, oxides of nitrogen (expressed as nitrogen dioxide), oxides of sulfur (expressed as sulfur dioxide), or PM₁₀ in an amount calculated by the APCO equal to or exceeding 50 tons per year.
- (Adopted 11/2/83; Amended 2/21/90; 6/6/90; 8/2/95; 6/7/00)
- 3-214 Deleted October 20, 1999, effective March 1, 2000**
- 3-215 Deleted October 20, 1999, effective March 1, 2000**
- 3-216 Deleted October 20, 1999, effective March 1, 2000**
- 3-217 Deleted October 20, 1999, effective March 1, 2000**
- 3-218 Deleted October 20, 1999, effective March 1, 2000**
- 3-219 Deleted October 20, 1999, effective March 1, 2000**
- 3-220 Deleted October 20, 1999, effective March 1, 2000**
- 3-221 Deleted October 20, 1999, effective March 1, 2000**
- 3-222 Deleted October 20, 1999, effective March 1, 2000**
- 3-223 Start-up Date:** Date when new or modified equipment under an authority to construct begins operating. The holder of an authority to construct is required to notify the APCO of this date at least 3 days in advance. For new sources, or modified sources whose authorities to construct have expired, operating fees are charged from the startup date.
- (Adopted 6/4/86; Amended 6/6/90)
- 3-224 Permit to Operate:** Written authorization from the APCO pursuant to Section 2-1-302.
- (Adopted 6/4/86; Amended 6/7/00)
- 3-225 Minor Modification:** Any physical change or alteration to a source listed on Schedules G-3 or G-4 that will not increase emissions of any air contaminant. Such modifications may include alterations to improve energy and operational efficiency and those that reduce emissions. Alterations to increase actual or maximum production capacity shall not be

considered minor modifications. Final determination of the applicability of this section shall be made by the APCO.

(Adopted June 6, 1990)

3-226 Air Toxics "Hot Spots" Information and Assessment Act of 1987: The Air Toxics "Hot Spots" Information and Assessment Act of 1987 directs the California Air Resources Board and the Air Quality Management Districts to collect information from industry on emissions of potentially toxic air contaminants and to inform the public about such emissions and their impact on public health. It also directs the Air Quality Management District to collect fees sufficient to cover the necessary state and District costs of implementing the program.

(Adopted 10/21/92; Amended 6/15/05)

3-227 Toxic Air Contaminant, or TAC: An air pollutant that may cause or contribute to an increase in mortality or in serious illness or that may pose a present or potential hazard to human health. For the purposes of this rule, TACs consist of the substances listed in Table 2-5-1 of Regulation 2, Rule 5.

(Adopted 10/21/92; Amended 6/15/05)

3-228 Deleted December 2, 1998

3-229 Deleted December 2, 1998

3-230 Deleted December 2, 1998

3-231 Deleted December 2, 1998

3-232 Deleted December 2, 1998

3-233 Deleted December 2, 1998

3-234 Deleted December 2, 1998

3-235 Deleted December 2, 1998

3-236 Deleted December 2, 1998

3-237 PM₁₀: See Section 2-1-229 of Regulation 2, Rule 1.

(Adopted June 7, 2000)

3-238 Risk Screening Fee: Fee for a new or modified source of toxic air contaminants for which a health risk screening analysis (HRSA) is required under Regulation 2-5-401, or for an HRSA prepared for other purposes (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402).

(Adopted June 15, 2005)

3-239 Toxic Surcharge: Fee paid in addition to the permit to operate fee for a source that emits one or more toxic air contaminants at a rate which exceeds a chronic trigger level listed in Table 2-5-1.

(Adopted June 15, 2005)

3-240 Biogenic Carbon Dioxide: Carbon dioxide emissions resulting from materials that are derived from living cells, excluding fossil fuels, limestone and other materials that have been transformed by geological processes. Biogenic carbon dioxide originates from carbon (released in the form of emissions) that is present in materials that include, but are not limited to, wood, paper, vegetable oils, animal fat, and food, animal and yard waste.

(Adopted May 21, 2008)

3-241 Green Business: A business or government agency that has been certified under the Bay Area Green Business Program coordinated by the Association of Bay Area Governments and implemented by participating counties.

3-300 STANDARDS

3-301 Hearing Board Fees: Applicants for variances or appeals or those seeking to revoke or modify variances or abatement orders or to rehear a Hearing Board decision shall pay the applicable fees, including excess emission fees, set forth in Schedule A.

(Amended June 7, 2000)

3-302 Fees for New and Modified Sources: Applicants for authorities to construct and permits to operate new sources shall pay for each new source: a filing fee of ~~\$337~~\$354, the initial fee, the risk screening fee, the permit to operate fee, and toxic surcharge (given in Schedules B,

C, D, E, F, H, I or K). Applicants for authorities to construct and permits to operate modified sources shall pay for each modified source, a filing fee of ~~\$337~~^{\$354}, the initial fee, the risk screening fee, and any incremental increase in permit to operate and toxic surcharge fees. Where more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Except for gasoline dispensing facilities (Schedule D) and semiconductor facilities (Schedule H), the size to be used for a source when applying the schedules shall be the maximum size the source will have after the construction or modification. Where applicable, fees for new or modified sources shall be based on maximum permitted usage levels or maximum potential to emit including any secondary emissions from abatement equipment. The APCO may reduce the fees for new and modified sources by an amount deemed appropriate if the owner or operator of the source attends an Industry Compliance School sponsored by the District.

302.1 Small Business Discount: If an applicant qualifies as a small business and the source falls under schedules B, C, D (excluding gasoline dispensing facilities), E, F, H, I or K, the filing fee, initial fee, and risk screening fee shall be reduced by 50%. All other applicable fees shall be paid in full.

302.2 Deleted July 3, 1991

302.3 Fees for Abatement Devices: Applicants for an authority to construct and permit to operate abatement devices where there is no other modification to the source shall pay a ~~\$337~~^{\$354} filing fee and initial and risk screening fees that are equivalent to 50% of the initial and risk screening fees for the source being abated. For abatement devices abating more than one source, the initial fee shall be 50% of the initial fee for the source having the highest initial fee.

302.4 Fees for Reactivated Sources: Applicants for a Permit to Operate reactivated, previously permitted equipment shall pay the full filing, initial, risk screening, permit, and toxic surcharge fees.

302.5 Schedule G Fees: Applicants for minor modifications to permitted sources subject to Schedules G-3, G-4, or G-5 shall pay filing, initial, risk screening, permit to operate, and toxic surcharge fees specified under Schedule G-2. Permit renewal fees will continue to be charged under Schedules G-3, G-4, and G-5.

302.6 Green Business Discount: If an applicant qualifies as a green business, the filing fee, initial fee, and risk screening fee shall be reduced by 10%. All other applicable fees shall be paid in full.

(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

3-303 Back Fees: An applicant required to obtain a permit to operate existing equipment in accordance with District regulations shall pay back fees equal to the permit to operate fees and toxic surcharges given in the appropriate Schedule (B, C, D, E, F, H, I or K) prorated from the effective date of permit requirements. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. The applicant shall also pay back fees equal to toxic inventory fees pursuant to Section 3-320 and Schedule N. The maximum back fee shall not exceed a total of five years' permit, toxic surcharge, and toxic inventory fees. An owner/operator required to register existing equipment in accordance with District regulations shall pay back fees equal to the annual renewal fee given in Schedule R prorated from the effective date of registration requirements, up to a maximum of five years.

(Amended 5/19/82; 7/6/83; 6/4/86; 7/15/87, 6/6/90; 7/3/91; 10/8/97; 6/15/05; 5/20/09)

3-304 Alteration: An applicant to alter an existing permitted source shall pay only the filing fee, provided that the alteration does not result in an increase in emissions of any regulated air pollutant.

(Amended 6/4/86; 11/15/00; 6/2/04)

3-305 Cancellation or Withdrawal: There will be no refund of initial, risk screening, and filing fees if an application is cancelled or withdrawn. However, if an application for identical equipment is submitted within six months of the date of cancellation or withdrawal, the initial fee will be credited in full against the fee for the new application.

(Amended 7/6/83; 4/6/88; 10/8/97; 6/15/05)

3-306 Change in Conditions: If an applicant applies to change the conditions on an existing authority to construct or permit to operate, the applicant will pay the following fees. There will be no change in anniversary date.

306.1 Administrative Condition Changes: An applicant applying for an administrative change in permit conditions shall pay a fee equal to the filing fee for a single source, provided the following criteria are met:

1.1 The condition change applies to a single source or a group of sources with shared permit conditions.

1.2 The condition change does not subject the source(s) to any District Regulations or requirements that were not previously applicable.

1.3 The condition change does not result in any increase in emissions of POC, NPOC, NO_x, CO, SO₂, or PM₁₀ at any source or the emission of a toxic air contaminant above the trigger levels identified in Table 2-5-1

1.4 The condition change does not require a public notice.

306.2 Other Condition Changes: Applicant shall pay the filing, initial, and risk screening fees required for new and modified equipment under Section 3-302. If the condition change will result in higher permit to operate fees, the applicant shall also pay any incremental increases in permit to operate fees and toxic surcharges.

(Amended 7/6/83; 6/4/86; 6/6/90; 10/8/97; 6/7/00; 6/15/05)

3-307 Transfers: The owner/operator of record is the person to whom a permit is issued or, if no permit has yet been issued to a facility, the person who applied for a permit. Permits are valid only for the owner/operator of record. Permits are re-issued to the new owner/operator of record with no change in expiration dates.

(Amended 2/20/85; 6/4/86; 11/5/86; 4/6/88; 10/8/97, 5/1/02; 5/21/03; 6/02/04)

3-308 Change of Location: An applicant who wishes to move an existing source, which has a permit to operate, shall pay no fee if the move is on the same facility. If the move is not on the same facility, the source shall be considered a new source and subject to Section 3-302. This section does not apply to portable permits meeting the requirements of Regulation 2-1-220 and 413.

(Amended 7/6/83; 6/4/86; 6/15/05)

3-309 Duplicate Permit: An applicant for a duplicate permit to operate shall pay a fee of ~~\$69~~\$72 per permit.

(Amended 5/19/99, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

3-310 Fee for Constructing Without a Permit: An applicant for an authority to construct and a permit to operate a source, which has been constructed or modified without an authority to construct, shall pay the following fees:

310.1 Sources subject to permit requirements on the date of initial operation shall pay fees for new construction pursuant to Section 3-302, any back fees pursuant to Section 3-303, a late fee equal to 100% of the initial fee, plus the risk screening fee. A modified gasoline dispensing facility subject to Schedule D that is not required to pay an initial fee shall pay back fees, a late fee equal to 100% of the filing fee, plus the risk screening fee.

310.2 Sources previously exempt from permit requirements that lose their exemption due to changes in District, state, or federal regulations shall pay a permit to operate fee and toxic surcharge for the coming year and any back fees pursuant to Section 3-303.

310.3 Sources previously exempt from permit requirements that lose their exemption due to a change in the manner or mode of operation, such as an increased throughput, shall pay fees for new construction pursuant to Section 3-302. In addition, sources applying for permits after commencing operation in a non-exempt mode shall also pay a late fee equal to 100% of the initial fee plus the risk screening fee and any back fees pursuant to Section 3-303.

310.4 Sources modified without a required authority to construct shall pay fees for modification pursuant to Section 3-302 and a late fee equal to 100% of the initial fee.

(Amended 7/6/83; 4/18/84; 6/4/86; 6/6/90; 7/3/91; 8/2/95; 10/8/97; 6/02/04; 6/15/05)

- 3-311 Banking:** Any applicant who wishes to bank emissions for future use, or convert an ERC into an IERC, shall pay a filing fee of ~~\$337~~\$354 per source plus the initial fee given in Schedules B, C, D, E, F, H, I or K. Where more than one of these schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. Any applicant for the withdrawal of banked emissions shall pay a fee of ~~\$337~~\$354.
(Amended 7/6/83; 6/4/86; 7/15/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)
- 3-312 Emission Caps and Alternative Compliance Plans:** Any facility which elects to use an alternative compliance plan contained in:
- 312.1 Regulation 8 ("bubble") to comply with a District emission limitation or to use an annual or monthly emission limit to acquire a permit in accordance with the provisions of Regulation 2, Rule 2, shall pay an additional annual fee equal to fifteen percent of the total plant permit to operate fee.
- 312.2 Regulation 2, Rule 9 shall pay an annual fee of ~~\$850~~\$893 for each source included in the alternative compliance plan, not to exceed ~~\$8,500~~\$8,934.
(Adopted 5/19/82; Amended 6/4/86; 5/19/99; 6/7/00; 6/6/01; 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)
- 3-313 Deleted May 19, 1999**
- 3-314 Deleted August 2, 1995**
- 3-315 Costs of Environmental Documentation:** An applicant for an Authority to Construct a project which is subject to review under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.) shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, the District's costs of performing all environmental evaluation required pursuant to the California Environmental Quality Act, the District's costs in preparing any environmental study or Environmental Impact Report (including the costs of any outside consulting assistance which the District may employ in connection with the preparation of any such study or report), as well as the District's reasonable internal costs (including overhead) of processing and reviewing the required environmental documentation.
(Adopted 12/18/85; Amended 5/1/02)
- 3-316 Deleted June 6, 1990**
- 3-317 Asbestos Operation Fees:** After July 1, 1988, persons submitting a written plan, as required by Regulation 11, Rule 2, Section 401, to conduct an asbestos operation shall pay the fee given in Schedule L.
(Adopted 7/6/88; Renumbered 9/7/88; Amended 8/2/95)
- 3-318 Public Notice Fee, Schools:** Pursuant to Section 42301.6(b) of the Health and Safety Code, an applicant for an authority to construct or permit to operate subject to the public notice requirements of Regulation 2-1-412 shall pay, in addition to the fees required under Section 3-302 and in any applicable schedule, a fee to cover the expense of preparing and distributing the public notices to the affected persons specified in Regulation 2-1-412 as follows:
- 318.1 A fee of ~~\$2000~~\$2100 per application, and
- 318.2 The District's cost exceeding ~~\$2000~~\$2100 of preparing and distributing the public notice.
- 318.3 The District shall refund to the applicant the portion of any fee paid under this Section that exceeds the District's cost of preparing and distributing the public notice.
(Adopted 11/1/89; Amended 10/8/97; 7/1/98; 5/19/99; 6/7/00; 5/21/03; 6/2/04)
- 3-319 Major Stationary Source Fees:** Any major stationary source emitting 50 tons per year of organic compounds, sulfur oxides, nitrogen oxides, or PM₁₀ shall pay a fee based on Schedule M. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities and shall be included as part of the annual permit renewal fees.
(Adopted 6/6/90; Amended 8/2/95; 6/7/00)
- 3-320 Toxic Inventory Fees:** Any facility that emits one or more toxic air contaminants in quantities above a minimum threshold level shall pay an annual fee based on Schedule N. This fee will be in addition to permit to operate, toxic surcharge, and other fees otherwise authorized to be collected from such facilities.

320.1 An applicant who qualifies as a small business under Regulation 3-209 shall pay a Toxic Inventory Fee as set out in Schedule N up to a maximum fee of ~~\$7,744~~\$8,131 per year.

(Adopted 10/21/92; Amended 5/19/99; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/20/09)

3-321 Deleted December 2, 1998

3-322 Excavation of Contaminated Soil and Removal of Underground Storage Tank Operation Fees: Persons submitting a written notification for a given site to conduct either excavation of contaminated soil or removal of underground storage tanks as required by Regulation 8, Rule 40, Section 401, 402, 403 or 405 shall pay a fee based on Schedule Q.

(Adopted 1/5/94; Amended 8/2/95; 5/21/03)

3-323 Pre-Certification Fees: An applicant seeking to pre-certify a source, in accordance with Regulation 2, Rule 1, Section 415, shall pay the filing fee, initial fee and permit to operate fee given in the appropriate schedule.

(Adopted June 7, 1995)

3-324 Deleted June 7, 2000

3-325 Deleted December 2, 1998

3-326 Deleted December 2, 1998

3-327 Permit to Operate, Renewal Fees: After the expiration of the initial permit to operate, the permit to operate shall be renewed on an annual basis or other time period as approved by the APCO. The fee required for the renewal of a permit to operate is the permit to operate fee and toxic surcharge listed in Schedules B, C, D, E, F, H, I, and K, prorated for the period of coverage. When more than one of the schedules is applicable to a source, the fee paid shall be the highest of the applicable schedules. This renewal fee is applicable to all sources required to obtain permits to operate in accordance with District regulations. The permit renewal invoice shall also specify any applicable major stationary source fees based on Schedule M, toxic inventory fees based on Schedule N, major facility review fees based on Schedule P, and greenhouse gas fees based on Schedule T. Where applicable, renewal fees shall be based on actual usage or emission levels that have been reported to or calculated by the District. In addition to these renewal fees for the sources at a facility, the facility shall also pay a processing fee at the time of renewal as follows:

327.1 ~~\$67~~\$70 for facilities with one permitted source, including gasoline dispensing facilities,

327.2 ~~\$130~~\$137 for facilities with 2 to 5 permitted sources,

327.3 ~~\$264~~\$274 for facilities with 6 to 10 permitted sources,

327.4 ~~\$394~~\$411 for facilities with 11 to 15 permitted sources,

327.5 ~~\$520~~\$546 for facilities with 16 to 20 permitted sources,

327.6 ~~\$654~~\$684 for facilities with more than 20 permitted sources.

(Adopted 6/7/00; Amended 6/2/04; 6/16/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

3-328 Fee for OEHHA Risk Assessment Reviews: Any facility that submits a health risk assessment to the District in accordance with Section 44361 of the California Health and Safety Code shall pay any fee requested by the State Office of Environmental Health Hazard Assessment (OEHHA) for reimbursement of that agency's costs incurred in reviewing the risk assessment.

(Adopted June 7, 2000)

3-329 Fee for Risk Screening: A health risk screening analysis (HRSA) required pursuant to Regulation 2, Rule 5 shall be subject to an appropriate Risk Screening Fee pursuant to Regulation 3-302 and Schedules B, C, D, E, F, H, I or K. In addition, any person that requests that the District prepare or review an HRSA (e.g., for determination of permit exemption in accordance with Regulations 2-1-316, 2-5-301 and 2-5-302; or for determination of exemption from emission control requirements pursuant to Regulation 8-47-113 and 8-47-402) shall pay a Risk Screening Fee.

(Adopted June 15, 2005)

3-330 Fee for Renewing an Authority to Construct: An applicant seeking to renew an authority to construct in accordance with Regulation 2-1-407 shall pay a fee of 50% of the initial fee in effect at the time of the renewal. If the District determines that an authority to construct cannot be renewed, any fees paid under this section shall be credited in full against the fee

- for a new authority to construct for functionally equivalent equipment submitted within six months of the date the original authority to construct expires.
(Adopted June 15, 2005)
- 3-331 Registration Fees:** Any person who is required to register equipment under District rules shall submit a registration fee, and any annual fee thereafter, as set out in Schedule R. The APCO may reduce registration fees by an amount deemed appropriate if the owner or operator of the equipment attends an Industry Compliance School sponsored by the District.
(Adopted June 6, 2007)
- 3-332 Naturally Occurring Asbestos Fees:** After July 1, 2007, any person required to submit an Asbestos Dust Mitigation Plan (ADMP) pursuant to Title 17 of the California Code of Regulations, Section 93105, Asbestos Air Toxic Control Measure for Construction, Grading, Quarrying, and Surface Mining Operations shall pay the fee(s) set out in Schedule S.
(Adopted June 6, 2007)
- 3-333 Major Facility Review (MFR) and Synthetic Minor Application Fees:** Any facility that applies for, or is required to undergo, an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit, a renewal of an MFR permit, an initial synthetic minor operating permit, or a revision to a synthetic minor operating permit, shall pay the applicable fees set forth in Schedule P.
(Adopted May 21, 2008)
- 3-334 Greenhouse Gas Fees:** Any permitted facility with greenhouse gas emissions shall pay a fee based on Schedule T. This fee is in addition to permit and other fees otherwise authorized to be collected from such facilities, and shall be included as part of the annual permit renewal fees.
(Adopted May 21, 2008)
- 3-335 Indirect Source Review Fees:** Applicants that must file an Air Quality Impact Assessment pursuant to District rules for a project that is deemed to be an indirect source shall pay a fee based on Schedule U.
(Adopted May 20, 2009)
- 3-400 ADMINISTRATIVE REQUIREMENTS**
- 3-401 Permits:** Definitions, standards, and conditions contained in Regulation 2, Permits, are applicable to this regulation.
- 3-402 Single Anniversary Date:** The APCO may assign a single anniversary date to a facility on which all its renewable permits to operate expire and will require renewal. Fees will be prorated to compensate for different time periods resulting from change in anniversary date.
- 3-403 Change in Operating Parameters:** See Section 2-1-404 of Regulation 2, Rule 1.
- 3-404 Deleted June 7, 2000**
- 3-405 Fees Not Paid:** If an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the following procedure(s) shall apply:
- 405.1 Authority to Construct: The application will be cancelled, but can be reactivated upon payment of fees.
 - 405.2 New Permit to Operate: The Permit to Operate shall not be issued, and the facility will be notified that operation, including startup, is not authorized.
 - 2.1 Fees received during the first 30 days following the due date must include an additional late fee equal to 10 percent of all fees specified on the invoice.
 - 2.2 Fees received more than 30 days after the due date must include an additional late fee equal to 50 percent of all fees specified on the invoice.
 - 405.3 Renewal of Permit to Operate: The facility will be notified that the permit has lapsed and that further operation is no longer authorized. Reinstatement of lapsed Permits to Operate will require the payment of reinstatement fees in addition to all fees specified on the invoice. Fees shall be calculated using fee schedules in effect at either the time of reinstatement or at the time additional fees are assessed under subsection 3-405.2.
 - 3.1 Fees received during the first 30 days following the due date must include all fees specified on the invoice plus a reinstatement fee equal to 10 percent of all

- fees specified on the invoice.
- 3.2 Fees received more than 30 days after the due date, but less than one year after the due date, must include all fees specified on the invoice plus a reinstatement fee equal to 50 percent of all fees specified on the invoice.
- 405.4 Other Fees: Persons who have not paid the fee by the invoice due date, shall pay a late fee in addition to the original invoiced fee. Fees shall be calculated using fee schedules in effect at the time of the fees' original determination.
- 4.1 Fees received more than 30 days after the invoice due date must include a late fee of 10 percent of the original invoiced fee.
(Amended 7/6/83; 6/4/86; 11/5/86; 2/15/89; 6/6/90; 7/3/91; 8/2/95; 12/2/98; 6/15/05; 6/7/06)
- 3-406 Deleted June 4, 1986**
- 3-407 Deleted August 2, 1995**
- 3-408 Permit to Operate Valid for 12 Months:** A Permit to Operate is valid for 12 months from the date of issuance or other time period as approved by the APCO.
(Amended 6/4/86; Amended 6/7/00)
- 3-409 Deleted June 7, 2000**
- 3-410 Deleted August 2, 1995**
- 3-411 Advance Deposit of Funds:** The APCO may require that at the time of the filing of an application for an Authority to Construct for a project for which the District is a lead agency under the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the applicant shall make an advance deposit of funds, in an amount to be specified by the APCO, to cover the costs which the District estimates to incur in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation. In the event the APCO requires such an estimated advance payment to be made, the applicant will be provided with a full accounting of the costs actually incurred by the District in connection with the District's performance of its environmental evaluation and the preparation of any required environmental documentation.
(Adopted 12/18/85; Amended 8/2/95)
- 3-412 Deleted December 2, 1998**
- 3-413 Toxic "Hot Spots" Information and Assessment Act Revenues:** No later than 120 days after the adoption of this regulation, the APCO shall transmit to the California Air Resources Board, for deposit into the Air Toxics "Hot Spots" Information and Assessment Fund, the revenues determined by the ARB to be the District's share of statewide Air Toxics "Hot Spot" Information and Assessment Act expenses.
(Adopted October 21, 1992)
- 3-414 Deleted December 2, 1998**
- 3-415 Failure to Pay - Further Actions:** When an applicant or owner/operator fails to pay the fees specified on the invoice by the due date, the APCO may take the following actions against the applicant or owner/operator:
- 415.1 Issuance of a Notice to Comply.
- 415.2 Issuance of a Notice of Violation.
- 415.3 Revocation of an existing Permit to Operate. The APCO shall initiate proceedings to revoke permits to operate for any person who is delinquent for more than one month. The revocation process shall continue until payment in full is made or until permits are revoked.
- 415.4 The withholding of any other District services as deemed appropriate until payment in full is made.
(Adopted 8/2/95; Amended 12/2/98; 6/15/05)
- 3-416 Adjustment of Fees:** The APCO or designees may, upon finding administrative error by District staff in the calculation, imposition, noticing, invoicing, and/or collection of any fee set forth in this rule, rescind, reduce, increase, or modify the fee. A request for such relief from an administrative error, accompanied by a statement of why such relief should be granted, must be received within two years from the date of payment.
(Adopted October 8, 1997)
- 3-417 Temporary Amnesty for Unpermitted and Unregistered Sources:** The APCO has the authority to declare an amnesty period, during which the District may waive all or part of the

back fees and/or late fees for sources that are currently operating without valid Permits to Operate and/or equipment registrations.

**SCHEDULE A
HEARING BOARD FEES¹**

Established by the Board of Directors December 7, 1977 Resolution No. 1046
(Code section references are to the California Health & Safety Code, unless otherwise indicated)

| | | Large Companies | Small Business | Third Party |
|----|---|--|--|----------------|
| 1. | For each application for variance exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application in accordance with §42350, the additional sum of | <u>\$2292</u> <u>\$2407</u> <u>\$1147</u> <u>\$1204</u> | <u>\$343</u> <u>\$360</u> <u>\$115</u> <u>\$121</u> | |
| 2. | For each application for variance not exceeding 90 days, in accordance with §42350, including applications on behalf of a class of applicants, which meet the requirements of the Hearing Board Rules for a valid and proper class action for variance Plus, for each hearing in addition to the first hearing necessary to dispose of said variance application, in accordance with §42350, the additional sum of | <u>\$1377</u> <u>\$1446</u> <u>\$687</u> <u>\$721</u> | <u>\$343</u> <u>\$360</u> <u>\$115</u> <u>\$121</u> | |
| 3. | For each application to modify a variance in accordance with §42356 ... Plus, for each hearing in addition to the first hearing on said application to modify a variance, in accordance with §42345, necessary to dispose of the application, the additional sum of..... | <u>\$914</u> <u>\$960</u> <u>\$687</u> <u>\$721</u> | <u>\$115</u> <u>\$121</u> <u>\$115</u> <u>\$121</u> | |
| 4. | For each application to extend a variance, in accordance with §42357 .. Plus, for each hearing in addition to the first hearing on an application to extend a variance, in accordance with §42357, necessary to dispose of the application, the additional sum of..... | <u>\$914</u> <u>\$960</u> <u>\$687</u> <u>\$721</u> | <u>\$115</u> <u>\$121</u> <u>\$115</u> <u>\$121</u> | |
| 5. | For each application to revoke a variance | <u>\$1377</u> <u>\$1446</u> | <u>\$115</u> <u>\$121</u> | |
| 6. | For each application for approval of a Schedule of Increments of Progress in accordance with §41703..... | <u>\$914</u> <u>\$960</u> | <u>\$115</u> <u>\$121</u> | |
| 7. | For each application for variance in accordance with §41703, which exceeds 90 days Plus, for each hearing in addition to the first hearing on said application for variance in accordance with §41703, the additional sum of | <u>\$2292</u> <u>\$2407</u> <u>\$1147</u> <u>\$1204</u> | <u>\$343</u> <u>\$360</u> <u>\$115</u> <u>\$121</u> | |
| 8. | For each application for variance in accordance with §41703, not to exceed 90 days Plus, for each hearing in addition to the hearing on said application for a variance in accordance with §41703, the additional sum of | <u>\$1377</u> <u>\$1446</u> <u>\$687</u> <u>\$721</u> | <u>\$343</u> <u>\$360</u> <u>\$115</u> <u>\$121</u> | |

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| | | Large Companies | Small Business | Third Party |
|-----|--|---|---|---|
| 9. | For each Appeal (Permit, Banking, Title V)..... | \$2293 <u>\$2407</u> per hearing day | \$1147 <u>\$1204</u> per hearing day | \$1147 <u>\$1204</u> for entire appeal period |
| 10. | For each application for intervention in accordance with Hearing Board Rules §§2.3, 3.6 & 4.6..... | \$1147 <u>\$1204</u> | \$230 <u>\$242</u> | |
| 11. | For each application to Modify or Terminate an abatement order | \$2292 <u>\$2407</u> per hearing day | \$1147 <u>\$1204</u> per hearing day | |
| 12. | For each application for an interim variance in accordance with §42351 | \$1147 <u>\$1204</u> | \$230 <u>\$242</u> | |
| 13. | For each application for an emergency variance in accordance with §42359.5..... | \$572 <u>\$601</u> | \$115 <u>\$121</u> | |
| 14. | For each application to rehear a Hearing Board decision in accordance with §40861 | 100% of previous fee charged | 100% of previous fee charged | |
| 15. | Excess emission fees..... | See Attachment I | See Attachment I | |
| 16. | Miscellaneous filing fee for any hearing not covered above | \$1147 <u>\$1204</u> | \$343 <u>\$360</u> | \$343 <u>\$360</u> |
| 17. | For each published Notice of Public Hearing | Cost of Publication | \$0 | \$0 |
| 18. | Court Reporter Fee (to be paid only if Court Reporter required for hearing) | Actual Appearance and Transcript costs per hearing solely dedicated to one Docket | \$0 | Actual Appearance and Transcript costs per hearing solely dedicated to one Docket |

NOTE 1 Any person who certifies under penalty of perjury that payment of the foregoing fees will cause an unreasonable hardship, may be excused from the payment of fees by order of the Hearing Board on that account.
 (Amended 10/8/97; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

**SCHEDULE A
ATTACHMENT I
EXCESS EMISSION FEE**

A. General

- (1) Each applicant or petitioner for a variance from these Rules and Regulations shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the other filing fees required in Schedule A, an emission fee based on the total weight of emissions discharged, per source or product, other than those described in division (B) below, during the variance period in excess of that allowed by these rules in accordance with the schedule set forth in Table I.
- (2) Where the total weight of emission discharged cannot be easily calculated, the petitioner shall work in concert with District staff to establish the amount of excess emissions to be paid.
- (3) In the event that more than one rule limiting the discharge of the same contaminant is violated, the excess emission fee shall consist of the fee for violation which will result in the payment of the greatest sum. For the purposes of this subdivision, opacity rules and particulate mass emissions shall not be considered rules limiting the discharge of the same contaminant.

B. Excess Visible Emission Fee

Each applicant or petitioner for a variance from Regulation 6 or Health and Safety Code Section 41701 shall pay to the Clerk or Deputy Clerk of the Hearing Board, in addition to the filing fees required in Schedule A and the excess emission fees required in (A) above (if any), an emission fee based on the difference between the percent opacity allowed by Regulation 6 and the percent opacity of the emissions allowed from the source or sources operating under the variance, in accordance with the schedule set forth in Table II.

In the event that an applicant or petitioner is exempt from the provisions of Regulation 6, the applicant or petitioner shall pay a fee calculated as described herein above, but such fee shall be calculated based upon the difference between the opacity allowed under the variance and the opacity allowed under the provisions of Health and Safety Code Section 41701, in accordance with the schedule set forth in Table II.

C. Applicability

The provisions of subdivision (A) shall apply to all variances that generate excess emissions.

D. Fee Determination

- (1) The excess emission fees shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions as set forth in subdivisions (A) and (B) above. The calculations and proposed fees shall be set forth in the petition.
- (2) The Hearing Board may adjust the excess emission fee required by subdivisions (A) and (B) of this rule based on evidence regarding emissions presented at the time of the hearing.

E. Small Businesses

- (1) A small business shall be assessed twenty percent (20%) of the fees required by subdivisions (A) and (B), whichever is applicable. "Small business" is defined in the Fee Regulation.
- (2) Request for exception as a small business shall be made by the petitioner under penalty of perjury on a declaration form provided by the Executive Officer which shall be submitted to the Clerk or Deputy Clerk of the Hearing Board at the time of filing a petition for variance.

F. Group, Class and Product Variance Fees

Each petitioner included in a petition for a group, class or product variance shall pay the filing fee specified in Schedule A, and the excess emission fees specified in subdivisions (A) and (B), whichever is applicable.

G. Adjustment of Fees

If after the term of a variance for which emission fees have been paid, petitioner can establish, to the satisfaction of the Executive Officer/APCO, that emissions were actually less than those upon which the fee was based, a pro rata refund shall be made.

H. Fee Payment/Variance Invalidation

- (1) Excess emission fees required by subdivisions (A) and (B), based on an estimate provided during the variance Hearing, are due and payable within fifteen (15) days of the granting of the variance. The petitioner shall be notified in writing of any adjustment to the amount of excess emission fees due, following District staff's verification of the estimated emissions. Fee payments to be made as a result of an adjustment are due and payable within fifteen (15) days of notification of the amount due.
- (2) Failure to pay the excess emission fees required by subdivisions (A) and (B) within fifteen (15) days of notification that a fee is due shall automatically invalidate the variance. Such notification may be given by personal service or by deposit, postpaid, in the United States mail and shall be due fifteen (15) days from the date of personal service or mailing. For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.

**TABLE I
SCHEDULE OF EXCESS EMISSIONS FEES**

| | |
|---|--|
| Air Contaminants | All at \$2.20 <u>\$2.31</u> Per Pound |
| Organic gases, except methane and those containing sulfur | |
| Carbon Monoxide | |
| Oxides of nitrogen (expressed as nitrogen dioxide) | |
| Gaseous sulfur compounds (expressed as sulfur dioxide) | |
| Particulate matter | |
| Toxic Air Contaminants | All at \$10.93 <u>\$11.47</u> Per Pound |
| Asbestos | |
| Benzene | |
| Cadmium | |
| Carbon tetrachloride | |
| Chlorinated dioxins and dibenzofurans (15 species) | |
| Ethylene dibromide | |
| Ethylene dichloride | |
| Ethylene oxide | |
| Formaldehyde | |
| Hexavalent chromium | |
| Methylene chloride | |
| Nickel | |
| Perchloroethylene | |
| 1,3-Butadiene | |
| Inorganic arsenic | |
| Beryllium | |
| Polynuclear aromatic hydrocarbons (PAH) | |
| Vinyl chloride | |
| Lead | |
| 1,4-Dioxane | |
| Trichloroethylene | |

**TABLE II
SCHEDULE OF EXCESS VISIBLE EMISSION FEE**

For each source with opacity emissions in excess of twenty percent (20%), but less than forty percent (40%) (where the source is in violation of Regulation 6, the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 20) \times \text{number of days allowed in variance} \times \text{~~\$2.45~~\$2.57}$$

For each source with opacity emissions in excess of forty percent (40%) (where the source is in violation of Regulation 6 and California Health and Safety Code Section 41701), the fee is calculated as follows:

$$\text{Fee} = (\text{Opacity}^* \text{ equivalent} - 40) \times \text{number of days allowed by variance} \times \text{~~\$2.45~~\$2.57}$$

* Where "Opacity" equals maximum opacity of emissions in percent (not decimal equivalent) allowed by the variance. Where the emissions are darker than the degree of darkness equivalent to the allowed Ringelmann number, the percentage equivalent of the excess degree of darkness shall be used as "opacity."

(Adopted 6/7/00; Amended 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

**SCHEDULE B
COMBUSTION OF FUEL**
(Adopted June 18, 1980)

For each source that burns fuel, which is not a flare and not exempted by Regulation 2, Rule 1, the fee shall be computed based on the maximum gross combustion capacity (expressed as higher heating value, HHV) of the source.

1. INITIAL FEE: ~~\$42.35~~\$44.46 per MM BTU/HOUR
 - a. The minimum fee per source is: ~~\$226~~\$237
 - b. The maximum fee per source is: ~~\$79,018~~\$82,969

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 plus ~~\$42.35~~\$44.46 per MM BTU/hr
 - b. Minimum RSF for first TAC source: ~~\$563~~\$591
 - c. RSF for each additional TAC source: ~~\$42.35~~\$44.46 per MM BTU/Hr *
 - d. Minimum RSF per additional TAC source: ~~\$226~~\$237 *
 - e. Maximum RSF per source is: ~~\$79,018~~\$82,969
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$21.17~~\$22.23 per MM BTU/HOUR
 - a. The minimum fee per source is: ~~\$161~~\$169
 - b. The maximum fee per source is: ~~\$39,508~~\$41,483

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

6. Applicants for an authority to construct and permit to operate a project, which burns municipal waste or refuse-derived fuel, shall pay in addition to all required fees, an additional fee to cover the costs incurred by the State Department of Health Services, and/or a qualified contractor designated by the State Department of Health Services, in reviewing a risk assessment as required under H&S Code Section 42315. The fee shall be transmitted by the District to the Department of Health Services and/or the qualified contractor upon completion of the review and submission of comments in writing to the District.

7. A surcharge equal to 100% of all required initial and permit to operate fees shall be charged for sources permitted to burn one or more of the following fuels: coke, coal, wood, tires, black liquor, and municipal solid waste.

NOTE: MM BTU is million BTU of higher heat value
One MM BTU/HR = 1.06 gigajoules/HR

(Amended 6/5/85; 6/4/86; 3/4/87; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE C
STATIONARY CONTAINERS FOR THE STORAGE OF ORGANIC LIQUIDS
 (Adopted June 18, 1980)

For each stationary container of organic liquids which is not exempted from permits by Regulation 2 and which is not part of a gasoline dispensing facility, the fee shall be computed based on the container volume, as follows:

1. INITIAL FEE: 0-~~165~~0.173 cents per gallon
 - a. The minimum fee per source is: ~~\$182~~\$191
 - b. The maximum fee per source is: ~~\$24,806~~\$26,046

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 plus 0-~~165~~0.173 cents per gallon
 - b. Minimum RSF for first TAC source: ~~\$519~~\$545
 - c. RSF for each additional TAC source: 0-~~165~~0.173 cents per gallon *
 - d. Minimum RSF per additional TAC source: ~~\$182~~\$191 *
 - e. Maximum RSF per source is: ~~\$24,806~~\$26,046
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: 0-~~083~~0.087 cents per gallon
 - a. The minimum fee per source is: ~~\$130~~\$137
 - b. The maximum fee per source is: ~~\$12,403~~\$13,023

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. ROUNDING: Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00;
 6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/20/09)

SCHEDULE D
GASOLINE TRANSFER AT GASOLINE DISPENSING FACILITIES,
BULK PLANTS AND TERMINALS
 (Adopted June 18, 1980)

A. All gasoline dispensing facilities shall pay the following fees:

1. INITIAL FEE: ~~\$165.95~~\$174.25 per single product nozzle (spn)
~~\$165.95~~\$174.25 per product for each multi-product nozzle (mpn)
2. PERMIT TO OPERATE FEE: ~~\$63.56~~\$66.74 per single product nozzle (spn)
~~\$63.56~~\$66.74 per product for each multi-product nozzle (mpn)

3. Initial fees and permit to operate fees for hardware modifications at a currently permitted gasoline dispensing facility shall be consolidated into a single fee calculated according to the following formula:

$$\frac{\$229.51}{\$240.99} \times \left\{ \left[\left(\text{mpn}_{\text{proposed}} \right) (\text{products per nozzle}) + \text{spn}_{\text{proposed}} \right] - \left[\left(\text{mpn}_{\text{existing}} \right) (\text{products per nozzle}) + \text{spn}_{\text{existing}} \right] \right\}$$

mpn = multi-product nozzles
spn = single product nozzles

The above formula includes a toxic surcharge.

If the above formula yields zero or negative results, no initial fees or permit to operate fees shall be charged.

For the purposes of calculating the above fees, a fuel blended from two or more different grades shall be considered a separate product.

Other modifications to facilities' equipment, including but not limited to tank addition/replacement/conversion, vapor recovery piping replacement, moving or extending pump islands, will not be subject to initial fees or permit to operate fees.

4. RISK SCREENING FEE (RSF) of ~~\$337~~\$354 per application is only applicable to projects for which a health risk screening analysis is required under Regulation 2-5-401 [including increases in permitted throughput for which a health risk screening analysis is required.]
5. Nozzles used exclusively for the delivery of diesel fuel or other fuels exempt from permits shall pay no fee. Multi-product nozzles used to deliver both exempt and non-exempt fuels shall pay fees for the non-exempt products only.

B. All bulk plants, terminals or other facilities using loading racks to transfer gasoline or gasohol into trucks, railcars or ships shall pay the following fees:

1. INITIAL FEE: ~~\$2,180~~\$2,289 per single product loading arm
~~\$2,180~~\$2,289 per product for multi-product arms

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.

- a. RSF for first TAC source in application: ~~\$2,517~~\$2,643
 - b. RSF for each additional TAC source: ~~\$2,180~~\$2,289 *
- * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$608~~\$638 per single product loading arm
~~\$608~~\$638 per product for multi-product arms

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4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- C. Fees in (A) above are in lieu of tank fees. Fees in (B) above are in addition to tank fees.
- D. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 2/20/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00;
6/6/01, 5/1/02; 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE E
SOLVENT EVAPORATING SOURCES
(Adopted June 18, 1980)

For each solvent evaporating source, as defined in Section 3-210 except for dry cleaners, the fee shall be computed based on the net amount of organic solvent processed through the sources on an annual basis (or anticipated to be processed, for new sources) including solvent used for the cleaning of the sources.

1. INITIAL FEE:
 - a. The minimum fee per source is: ~~\$365~~\$383
 - b. If usage is not more than 1,000 gallons/year: ~~\$365~~\$383
 - c. If usage is more than 1,000 gallons/year: ~~\$734~~\$771 per 1,000 gallons
 - d. The maximum fee per source is: ~~\$29,186~~\$30,645

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 plus initial fee
 - b. Minimum RSF for first TAC source: ~~\$702~~\$737
 - c. RSF for each additional TAC source: equal to initial fee *
 - d. Minimum RSF per additional TAC source: ~~\$365~~\$383 *
 - e. Maximum RSF per source is: ~~\$29,186~~\$30,645

* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE:
 - a. The minimum fee per source is: ~~\$263~~\$276
 - b. If usage is not more than 1,000 gallons/year: ~~\$263~~\$276
 - c. If usage is more than 1,000 gallons/year: ~~\$365~~\$383 per 1,000 gallons
 - d. The maximum fee per source is: ~~\$14,591~~\$15,321

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 5/19/82; 10/17/84; 6/5/85; 6/4/86; 10/8/87; 7/3/91; 6/15/94; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE F
MISCELLANEOUS SOURCES
 (Adopted June 18, 1980)

For each source not governed by Schedules B, C, D, E, H or I, (except for those sources in the special classification lists, G-1 - G-5) the fees are:

1. INITIAL FEE: ~~\$328~~\$344

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$665~~\$698
 - b. RSF for each additional TAC source: ~~\$328~~\$344 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$237~~\$249

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1. List of special classifications requiring graduated fees is shown in Schedules G-1, G-2, G-3, G-4, and G-5.

G-1. FEES FOR SCHEDULE G-1, For each source in a G-1 classification, fees are:

1. INITIAL FEE: ~~\$2,019~~\$2,120

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$2,356~~\$2,474
 - b. RSF for each additional TAC source: ~~\$2,019~~\$2,120 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$1,008~~\$1,058

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-2. FEES FOR SCHEDULE G-2, For each source in a G-2 classification, fees are:

1. INITIAL FEE: ~~\$2,854~~\$2,997

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$3,191~~\$3,351
 - b. RSF for each additional TAC source: ~~\$2,854~~\$2,997 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE: ~~\$1,426~~\$1,497

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

DRAFT AMENDMENTS – March 9, 2010

G-3. FEES FOR SCHEDULE G-3, For each source in a G-3 classification, fees are:

1. INITIAL FEE: ~~\$16,565~~\$17,393
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$16,902~~\$17,747
 - b. RSF for each additional TAC source: ~~\$16,565~~\$17,393 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$8,282~~\$8,696
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-4. FEES FOR SCHEDULE G-4, For each source in a G-4 classification, fees are:

1. INITIAL FEE: ~~\$47,335~~\$49,702
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$47,672~~\$50,056
 - b. RSF for each additional TAC source: ~~\$47,335~~\$49,702 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$23,667~~\$24,850
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

G-5. FEES FOR SCHEDULE G-5, For each source in a G-5 classification, fees are:

1. INITIAL FEE: ~~\$37,272~~\$39,136
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$37,609~~\$39,489
 - b. RSF for each additional TAC source: ~~\$37,272~~\$39,136 *
 - * RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE: ~~\$18,635~~\$19,567
4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

(Amended 5/19/82; 6/5/85; 6/4/86; 6/6/90; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00
6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE G-1
(Adopted June 18, 1980)

| Equipment or Process Description | Materials Processed or Produced |
|---|--|
| Asphalt Roofing Manufacturing – Asphalt Dipping | Asphalt Roofing or Related Materials |
| Calcining Kilns, excluding those processing cement, lime, or coke (see G-4 for cement, lime, or coke Calcining Kilns) | Any Materials except cement, lime, or coke |
| Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 1000 Gallons/Hour or more | Any Inorganic Materials |
| Chemical Manufacturing, Inorganic – Processing Units with a Capacity of 5 Tons/Hour or more | Any Inorganic Materials |
| Chemical Manufacturing, Inorganic – Reactors with a Capacity of 1000 Gallons or more | Any Inorganic Materials |
| Chemical Manufacturing, Organic - Latex Dipping | Any latex materials |
| Chemical Manufacturing, Organic – Processing Units with a Capacity of 1000 Gallons/Hour or more | Any Organic Materials |
| Chemical Manufacturing, Organic – Processing Units with a Capacity of 5 Tons/Hour or more | Any Organic Materials |
| Chemical Manufacturing, Organic – Reactors with a Capacity of 1000 Gallons or more | Any Organic Materials |
| Compost Operations – Windrows, Static Piles, Aerated Static Piles, In-Vessel, or similar methods | Any waste materials such as yard waste, food waste, agricultural waste, mixed green waste, bio-solids, animal manures, etc. |
| Crushers | Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials |
| Electroplating Equipment | Hexavalent Decorative Chrome with permitted capacity greater than 500,000 amp-hours per year or Hard Chrome |
| Foil Manufacturing – Any Converting or Rolling Lines | Any Metal or Alloy Foils |
| Galvanizing Equipment | Any |

| Equipment or Process Description | Materials Processed or Produced |
|--|--|
| Glass Manufacturing – Batching Processes including storage and weigh hoppers or bins, conveyors, and elevators | Any Dry Materials |
| Glass Manufacturing – Mixers | Any Dry Materials |
| Glass Manufacturing – Molten Glass Holding Tanks | Any molten glass |
| Grinders | Any minerals or mineral products such as rock, aggregate, cement, concrete, or glass; waste products such as building or road construction debris; and any wood, wood waste, green waste; or similar materials |
| Incinerators – Crematory | Human and/or animal remains |
| Incinerators – Flares | Any waste gases |
| Incinerators – Other (see G-2 for hazardous or municipal solid waste incinerators, see G-3 for medical or infectious waste incinerators) | Any Materials except hazardous wastes, municipal solid waste, medical or infectious waste |
| Incinerators – Pathological Waste (see G-3 for medical or infectious waste incinerators) | Pathological waste only |
| Loading and/or Unloading Operations – Bulk Plants and Bulk Terminals, excluding those loading gasoline or gasohol (see Schedule D for Bulk Plants and Terminals loading gasoline or gasohol) | Any Organic Materials except gasoline or gasohol |
| Petroleum Refining – Alkylation Units | Any Hydrocarbons |
| Petroleum Refining – Asphalt Oxidizers | Any Hydrocarbons |
| Petroleum Refining – Benzene Saturation Units/Plants | Any Hydrocarbons |
| Petroleum Refining – Catalytic Reforming Units | Any Hydrocarbons |
| Petroleum Refining – Chemical Treating Units including alkane, naphthenic acid, and naphtha merox treating, or similar processes | Any Hydrocarbons |
| Petroleum Refining – Converting Units including Dimersol Plants, Hydrocarbon Splitters, or similar processes | Any Hydrocarbons |
| Petroleum Refining – Distillation Units, excluding crude oil units with capacity > 1000 barrels/hour (see G-3 for > 1000 barrels/hour crude distillation units) | Any Hydrocarbons |
| Petroleum Refining – Hydrogen Manufacturing | Hydrogen or Any Hydrocarbons |

| Equipment or Process Description | Materials Processed or Produced |
|--|---|
| Petroleum Refining – Hydrotreating or Hydrofining | Any Hydrocarbons |
| Petroleum Refining – Isomerization | Any Hydrocarbons |
| Petroleum Refining – MTBE Process Units/Plants | Any Hydrocarbons |
| Petroleum Refining – Sludge Converter | Any Petroleum Waste Materials |
| Petroleum Refining – Solvent Extraction | Any Hydrocarbons |
| Petroleum Refining – Sour Water Stripping | Any Petroleum Process or Waste Water |
| Petroleum Refining – Storage (enclosed) | Petroleum Coke or Coke Products |
| Petroleum Refining – Waste Gas Flares (not subject to Regulation 12, Rule 11) | Any Petroleum Refining Gases |
| Petroleum Refining – Miscellaneous Other Process Units | Any Hydrocarbons |
| Remediation Operations, Groundwater – Strippers | Contaminated Groundwater |
| Remediation Operations, Soil - Any Equipment | Contaminated Soil |
| Spray Dryers | Any Materials |
| Sterilization Equipment | Ethylene Oxide |
| Wastewater Treatment, Industrial – Oil-Water Separators, excluding oil-water separators at petroleum refineries (see G-2 for Petroleum Refining - Oil-Water Separators) | Wastewater from any industrial facilities except petroleum refineries |
| Wastewater Treatment, Industrial – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment and excluding strippers at petroleum refineries (see G-2 for Petroleum Refining – Strippers) | Wastewater from any industrial facilities except petroleum refineries |
| Wastewater Treatment, Industrial - Storage Ponds, excluding storage ponds at petroleum refineries (see G-2 for Petroleum Refining – Storage Ponds) | Wastewater from any industrial facilities except petroleum refineries |
| Wastewater Treatment, Municipal – Preliminary Treatment | Municipal Wastewater |
| Wastewater Treatment, Municipal – Primary Treatment | Municipal Wastewater |
| Wastewater Treatment, Municipal – Digesters | Municipal Wastewater |
| Wastewater Treatment, Municipal – Sludge Handling Processes, excluding sludge incinerators (see G-2 for sludge incinerators) | Sewage Sludge |

(Amended 6/4/86; 6/6/90; 5/19/99; 6/7/00; 6/2/04; 6/15/05)

SCHEDULE G-2

(Adopted June 6, 1990)

| Equipment or Process Description | Materials Processed or Produced |
|--|---|
| Asphalt Roofing Manufacturing – Asphalt Blowing | Asphalt Roofing or Related Materials |
| Asphaltic Concrete Manufacturing – Aggregate Dryers | Any Dry Materials |
| Asphaltic Concrete Manufacturing – Batch Mixers | Any Asphaltic Concrete Products |
| Asphaltic Concrete Manufacturing – Drum Mixers | Any Asphaltic Concrete Products |
| Asphaltic Concrete Manufacturing – Other Mixers and/or Dryers | Any Dry Materials or Asphaltic Concrete Products |
| Concrete or Cement Batching Operations – Mixers | Any cement, concrete, or stone products or similar materials |
| Furnaces – Electric | Any Mineral or Mineral Product |
| Furnaces – Electric Induction | Any Mineral or Mineral Product |
| Furnaces – Glass Manufacturing | Soda Lime only |
| Furnaces – Reverberatory | Any Ores, Minerals, Metals, Alloys, or Related Materials |
| Incinerators – Hazardous Waste including any unit required to have a RCRA permit | Any Liquid or Solid Hazardous Wastes |
| Incinerators – Solid Waste, excluding units burning human/animal remains or pathological waste exclusively (see G-1 for Crematory and Pathological Waste Incinerators) | Any Solid Waste including Sewage Sludge (except human/animal remains or pathological waste) |
| Metal Rolling Lines, excluding foil rolling lines (see G-1 for Foil Rolling Lines) | Any Metals or Alloys |
| Petroleum Refining – Stockpiles (open) | Petroleum Coke or coke products only |
| Petroleum Refining, Wastewater Treatment – Oil-Water Separators | Wastewater from petroleum refineries only |
| Petroleum Refining, Wastewater Treatment – Strippers including air strippers, nitrogen strippers, dissolved air flotation units, or similar equipment | Wastewater from petroleum refineries only |
| Petroleum Refining, Wastewater Treatment – Storage Ponds | Wastewater from petroleum refineries only |
| Pickling Lines or Tanks | Any Metals or Alloys |
| Sulfate Pulping Operations – All Units | Any |
| Sulfite Pulping Operations – All Units | Any |

(Amended June 7, 2000)

SCHEDULE G-3
(Adopted June 18, 1980)

| Equipment or Process Description | Materials Processed or Produced |
|---|--|
| Furnaces – Electric Arc | Any Metals or Alloys |
| Furnaces – Electric Induction | Any Metals or Alloys |
| Incinerators – Medical Waste, excluding units burning pathological waste exclusively (see G-1 for Pathological Waste Incinerators) | Any Medical or Infectious Wastes |
| Loading and/or Unloading Operations – Marine Berths | Any Organic Materials |
| Petroleum Refining – Cracking Units including hydrocrackers and excluding thermal or fluid catalytic crackers (see G-4 for Thermal Crackers and Catalytic Crackers) | Any Hydrocarbons |
| Petroleum Refining – Distillation Units (crude oils) including any unit with a capacity greater than 1000 barrels/hour (see G-1 for other distillation units) | Any Petroleum Crude Oils |
| Phosphoric Acid Manufacturing – All Units (by any process) | Phosphoric Acid |

(Amended 5/19/82; Amended and renumbered 6/6/90; Amended 6/7/00; 6/15/05; 5/2/07)

SCHEDULE G-4
(Adopted June 6, 1990)

| Equipment or Process Description | Materials Processed or Produced |
|---|--|
| Acid Regeneration Units | Sulfuric or Hydrochloric Acid only |
| Annealing Lines (continuous only) | Metals and Alloys |
| Calcining Kilns (see G-1 for Calcining Kilns processing other materials) | Cement, Lime, or Coke only |
| Fluidized Bed Combustors | Solid Fuels only |
| Nitric Acid Manufacturing – Any Ammonia Oxidation Processes | Ammonia or Ammonia Compounds |
| Petroleum Refining - Coking Units including fluid cokers, delayed cokers, flexicokers, and coke kilns | Petroleum Coke and Coke Products |
| Petroleum Refining - Cracking Units including fluid catalytic crackers and thermal crackers and excluding hydrocrackers (see G-3 for Hydrocracking Units) | Any Hydrocarbons |
| Petroleum Refining - Sulfur Removal including any Claus process or any other process requiring caustic reactants | Any Petroleum Refining Gas |
| Sulfuric Acid Manufacturing – Any Chamber or Contact Process | Any Solid, Liquid or Gaseous Fuels Containing Sulfur |

(Amended June 7, 2000)

SCHEDULE G-5

| Equipment or Process Description | Materials Processed or Produced |
|--|--|
| Petroleum Refinery Flares (subject to Regulation 12, Rule 11) | Any Petroleum Vent Gas (as defined in section 12-11-210 and section 12-12-213) |

(Adopted May 2, 2007)

SCHEDULE H
SEMICONDUCTOR AND RELATED OPERATIONS
 (Adopted May 19, 1982)

All of the equipment within a semiconductor fabrication area will be grouped together and considered one source. The fee shall be as indicated:

1. INITIAL FEE:
 - a. The minimum fee per source is: ~~\$319~~\$335
 - b. The maximum fee per source is: ~~\$25,499~~\$26,774

The initial fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

 - c. SOLVENT CLEANING OPERATIONS, such as usage of:
 Solvent Sinks (as defined in Regulation 8-30-214);
 Solvent Spray Stations (as defined in Regulation 8-30-221);
 Solvent Vapor Stations (as defined in Regulation 8-30-222); and
 Wipe Cleaning Operation (as defined in Regulation 8-30-225).
 The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):
 - i. If gross throughput is not more than 3,000 gal/yr: ~~\$319~~\$335
 - ii. If gross throughput is more than 3,000 gallons/year: ~~\$245~~\$226 per 1,000 gallon
 - d. COATING OPERATIONS, such as application of:
 Photoresist (as defined in Regulation 8-30-215); other wafer coating;
 Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other miscellaneous solvent usage.
 The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):
 - i. If gross throughput is not more than 1,000 gal/yr: ~~\$319~~\$335
 - ii. If gross throughput is more than 1,000 gallons/year: ~~\$641~~\$673 per 1,000 gallon
2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 plus initial fee
 - b. Minimum RSF for first TAC source: ~~\$656~~\$689
 - c. RSF for each additional TAC source: equal to initial fee *
 - d. Minimum RSF per additional TAC source: ~~\$319~~\$335 *
 - e. Maximum RSF per source is: ~~\$25,499~~\$26,774

* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1
3. PERMIT TO OPERATE FEE:
 - a. The minimum fee per source is: ~~\$230~~\$242
 - b. The maximum fee per source is: ~~\$12,748~~\$13,385

The permit to operate fee shall include the fees for each type of operation listed below, which is performed at the fabrication area:

 - c. SOLVENT CLEANING OPERATIONS, such as usage of:
 Solvent Sinks (as defined in Regulation 8-30-214);
 Solvent Spray Stations (as defined in Regulation 8-30-221);
 Solvent Vapor Stations (as defined in Regulation 8-30-222); and

Wipe Cleaning Operation (as defined in Regulation 8-30-225).

The fee is based on the gross throughput of organic solvent processed through the solvent cleaning operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 3,000 gal/yr: ~~\$230~~\$242
- ii. If gross throughput is more than 3,000 gallons/year: ~~\$408~~\$113 per 1,000 gallon

d. COATING OPERATIONS, such as application of:

Photoresist (as defined in Regulation 8-30-215); other wafer coating; Solvent-Based Photoresist Developer (as defined in Regulation 8-30-219); and other miscellaneous solvent usage.

The fee is based on the gross throughput of organic solvent processed through the coating operations on an annual basis (or anticipated to be processed, for new sources):

- i. If gross throughput is not more than 1,000 gal/yr: ~~\$230~~\$242
- ii. If gross throughput is more than 1,000 gallons/year: ~~\$349~~\$335 per 1,000 gallon

- 4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.
- 5. The fee for each source will be rounded to the whole dollar. Fees for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 1/9/85; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/20/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

**SCHEDULE I
DRY CLEANERS**
(Adopted July 6, 1983)

For dry cleaners, the fee shall be computed based on each cleaning machine, except that machines with more than one drum shall be charged based on each drum, regardless of the type or quantity of solvent, as follows:

1. INITIAL FEE FOR A DRY CLEANING MACHINE (per drum):
 - a. If the washing or drying capacity is no more than 100 pounds: ~~\$328~~\$344
 - b. If the washing or drying capacity exceeds 100 pounds: ~~\$328~~\$344 plus
For that portion of the capacity exceeding 100 pounds: ~~\$9.78~~\$10.27 per pound

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 plus initial fee
 - b. Minimum RSF for first TAC source: ~~\$665~~\$698
 - c. RSF for each additional TAC source: equal to initial fee *
 - d. Minimum RSF per additional TAC source: ~~\$328~~\$344 *

* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE FOR A DRY CLEANING MACHINE (per drum):
 - a. If the washing or drying capacity is no more than 100 pounds: ~~\$237~~\$249
 - b. If the washing or drying capacity exceeds 100 pounds: ~~\$237~~\$249 plus
For that portion of the capacity exceeding 100 pounds: ~~\$4.94~~\$5.16 per pound

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. Fees for each source will be rounded to the nearest dollar. The fee for sources will be rounded up to the nearest dollar for 51 cents and above, and amounts 50 cents and lower will be rounded down to the nearest dollar.

(Amended 10/17/84; 6/5/85; 6/4/86; 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00;
6/6/01, 5/1/02, 5/21/03; 6/02/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

**SCHEDULE K
SOLID WASTE DISPOSAL SITES**
(Adopted July 15, 1987)

1. INITIAL FEE:
 - a. Inactive or Closed Solid Waste Disposal Sites ~~\$2,187~~\$2,296
 - b. Active Solid Waste Disposal Sites ~~\$4,373~~\$4,592

2. RISK SCREENING FEE (RSF) is only applicable for new and modified sources of toxic air contaminants (TACs) for which a health risk screening analysis is required under Regulation 2-5-401.
 - a. RSF for first TAC source in application: ~~\$337~~\$354 initial fee
 - b. RSF for each additional TAC source: equal to initial fee *

* RSF for additional TAC sources is only applicable to those sources that emit one or more TACs at a rate that exceeds a trigger level listed in Table 2-5-1

3. PERMIT TO OPERATE FEE:
 - a. Inactive or Closed Solid Waste Disposal Sites ~~\$1,093~~\$1,148
 - b. Active Solid Waste Disposal Sites ~~\$2,187~~\$2,296

4. TOXIC SURCHARGE is only applicable for a source that emits one or more TACs at a rate that exceeds a chronic trigger level listed in Table 2-5-1: the permit to operate fee shall be raised by ten percent. This fee shall not be assessed for TACs not listed in Table 2-5-1.

5. Evaluation of Reports and Questionnaires:
 - a. Evaluation of Solid Waste Air Assessment Test Report as required by Health & Safety Code Section 41805.5(g) ~~\$1,314~~\$1,380
 - b. Inactive Site Questionnaire evaluation as required by Health & Safety Code Section 41805.5(b) ~~\$659~~\$692
 - c. Evaluation of Solid Waste Air Assessment Test report in conjunction with evaluation of Inactive Site Questionnaire as required by Health & Safety Code Section 41805.5(b) ~~\$659~~\$692
 - d. Evaluation of Initial or Amended Design Capacity Reports as required by Regulation 8, Rule 34, Section 405 ~~\$484~~\$508
 - e. Evaluation of Initial or Periodic NMOC Emission Rate Reports as required by Regulation 8, Rule 34, Sections 406 or 407 ~~\$1,386~~\$1,455
 - f. Evaluation of Closure Report as required by Regulation 8, Rule 34, Section 409 ~~\$484~~\$508
 - g. Evaluation of Annual Report as required by Regulation 8, Rule 34, Section 411 ~~\$1,213~~\$1,274

6. Fees for each source will be rounded off to the nearest dollar. The fee for sources will be rounded up or down to the nearest dollar.

7. For the purposes of this fee schedule, a solid waste disposal site shall be considered active, if it has accepted solid waste for disposal at any time during the previous 12 months or has plans to accept solid waste for disposal during the next 12 months.

(Amended 7/3/91; 6/15/94; 10/8/97; 7/1/98; 5/19/99; 10/6/99; 6/7/00; 6/6/01; 5/1/02, 5/21/03; 6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE L
ASBESTOS OPERATIONS
(Adopted July 6, 1988)

1. Asbestos Operations conducted at single family dwellings are subject to the following fees:
 - a. OPERATION FEE: ~~\$110~~\$116 for amounts 100 to 500 square feet or linear feet.
~~\$408~~\$428 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.
~~\$593~~\$623 for amounts 1001 square feet or liner feet to 2000 square feet or linear feet.
~~\$810~~\$856 for amounts greater than 2000 square feet or linear feet.
 - b. Cancellation: ~~\$53~~\$56 of above amounts non-refundable, for notification processing.

2. Asbestos Operations, other than those conducted at single family dwellings, are subject to the following fees:
 - a. OPERATION FEE: ~~\$314~~\$330 for amounts 100 to 159 square feet or 100 to 259 linear feet or 35 cubic feet
~~\$453~~\$476 for amounts 160 square feet or 260 linear feet to 500 square or linear feet or greater than 35 cubic feet.
~~\$659~~\$692 for amounts 501 square feet or linear feet to 1000 square feet or linear feet.
~~\$972~~\$1,021 for amounts 1001 square feet or liner feet to 2500 square feet or linear feet.
~~\$1,386~~\$1,455 for amounts 2501 square feet or linear feet to 5000 square feet or linear feet.
~~\$1,903~~\$1,998 for amounts 5001 square feet or linear feet to 10000 square feet or linear feet.
~~\$2,421~~\$2,542 for amounts greater than 10000 square feet or linear feet.
 - b. Cancellation: ~~\$149~~\$156 of above amounts non-refundable for notification processing.

3. Demolitions (including zero asbestos demolitions) conducted at a single-family dwelling are subject to the following fee:
 - a. OPERATION FEE: ~~\$53~~\$56
 - b. Cancellation: ~~\$53~~\$56 (100% of fee) non-refundable, for notification processing.

4. Demolitions (including zero asbestos demolitions) other than those conducted at a single family dwelling are subject to the following fee:
 - a. OPERATION FEE: ~~\$223~~\$234
 - b. Cancellation: ~~\$149~~\$156 of above amount non-refundable for notification processing.

5. Asbestos operations with less than 10 days prior notice (excluding emergencies) are subject to the following additional fee:
 - a. OPERATION FEE: ~~\$371~~\$390

6. Asbestos demolition operations for the purpose of fire training are exempt from fees.

7. Floor mastic removal using mechanical buffers and solvent is subject to the following fee:
 - a. OPERATION FEE: ~~\$223~~\$234
 - b. Cancellation: ~~\$149~~\$156 of above amount non-refundable for notification processing.

(Amended 9/5/90; 1/5/94; 8/20/97; 10/7/98; 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07; 5/21/08; 5/20/09)

SCHEDULE M
MAJOR STATIONARY SOURCE FEES
(Adopted June 6, 1990)

For each major stationary source emitting 50 tons per year or more of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, and/or PM₁₀, the fee shall be based on the following:

- | | | |
|----|-------------------|---|
| 1. | Organic Compounds | \$100.77 <u>\$105.81</u> per ton |
| 2. | Sulfur Oxides | \$100.77 <u>\$105.81</u> per ton |
| 3. | Nitrogen Oxides | \$100.77 <u>\$105.81</u> per ton |
| 4. | PM ₁₀ | \$100.77 <u>\$105.81</u> per ton |

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. In calculating the fee amount, emissions of Organic Compounds, Sulfur Oxides, Nitrogen Oxides, or PM₁₀, if occurring in an amount less than 50 tons per year, shall not be counted.

(Amended 7/3/91; 6/15/94; 7/1/98; 5/9/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03; 6/2/04;
6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

**SCHEDULE N
TOXIC INVENTORY FEES
(Adopted October 21, 1992)**

For each stationary source emitting substances covered by California Health and Safety Code Section 44300 *et seq.*, the Air Toxics "Hot Spots" Information and Assessment Act of 1987, which have trigger levels listed in Table 2-5-1, a fee based on the weighted emissions of the facility shall be assessed based on the following formulas:

1. A fee of \$5 for each gasoline product dispensing nozzle in the facility, if the facility is a Gasoline Dispensing Facility; or
2. A fee of \$75 if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 50 weighted pounds per year and less than 1000 weighted pounds per year; or
3. A fee of $\$75 + S_L \times (w_i - 1000)$ if the facility has emissions in the current Toxic Emissions Inventory which are greater than or equal to 1000 weighted pounds per year;

where the following relationships hold:

w_i = facility weighted emissions for facility j; where the weighted emission for the facility shall be calculated as a sum of the individual emissions of the facility multiplied by either the ~~Unit Risk Factor (URF)~~ inhalation cancer potency factor (CPF, in kilogram-day/milligram) for the substance times ~~28.6 one hundred thousand (in cubic meters/microgram)~~ if the emission is a carcinogen, or by the reciprocal of the inhalation chronic reference exposure level (REL_c) for the substance (in cubic meters/microgram) if the emission is not a carcinogen [use ~~URF and REL_c~~ CPF and REL as listed in Table 2-5-1]:

w_j = Facility Weighted Emission = $\sum_{i=1}^n E_i * Q_i$ where

n = number of toxic substances emitted by facility

E_j = amount of substance i emitted by facility in lbs/year

Q_i = $\frac{28.6 * CPF_{URF} * 10^5}{1}$, if i is a carcinogen; or

Q_i = $[REL_c]^{-1}$, if i is not a carcinogen

F_T = Total amount of fees to be collected by the District to cover District and State of California AB 2588 costs as most recently adopted by the Board of Directors of the California Environmental Protection Agency, Air Resources Board, and set out in the most recently published "Amendments to the Air Toxics "Hot Spots" Fee Regulation," published by that agency.

N_L = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 1000 weighted pounds per year.

N_S = Number of facilities with emissions in current District Toxic Emissions Inventory greater than 50 weighted pounds per year and less than 1000 weighted pounds per year.

N_{NOZ} = Number of gasoline-product-dispensing nozzles in currently permitted Gasoline Dispensing Facilities.

S_L = Surcharge per pound of weighted emissions for each pound in excess of 1000 weighted pounds per year, where S_L is given by the following formula:

$$S_L = \frac{F_T - (75 \times N_S) - (75 \times N_L) - (5 \times N_{NOZ})}{\sum_{j=1}^{N_L} (w_j - 1000)}$$

(Amended 12/15/93; 6/15/05; 5/2/07)

SCHEDULE P
MAJOR FACILITY REVIEW FEES
 (Adopted November 3, 1993)

1. MFR / SYNTHETIC MINOR ANNUAL FEES

Each facility, which is required to undergo major facility review in accordance with the requirements of Regulation 2, Rule 6, shall pay annual fees (1a and 1b below) for each source holding a District Permit to Operate. These fees shall be in addition to and shall be paid in conjunction with the annual renewal fees paid by the facility. However, these MFR permit fees shall not be included in the basis to calculate Alternative Emission Control Plan (bubble) or toxic air contaminant surcharges. If a major facility applies for and obtains a synthetic minor operating permit, the requirement to pay the fees in 1a and 1b shall terminate as of the date the APCO issues the synthetic minor operating permit.

- a. MFR SOURCE FEE ~~\$364~~\$400 per source
- b. MFR EMISSIONS FEE..... ~~\$14.34~~\$15.77 per ton of regulated air pollutants emitted

Each MFR facility and each synthetic minor facility shall pay an annual monitoring fee (1c below) for each pollutant measured by a District-approved continuous emission monitor or a District-approved parametric emission monitoring system.

- c. MFR/SYNTHETIC MINOR MONITORING FEES ~~\$3,641~~\$4,005 per monitor per pollutant

2. SYNTHETIC MINOR APPLICATION FEES

Each facility that applies for a synthetic minor operating permit or a revision to a synthetic minor operating permit shall pay application fees according to 2a and either 2b (for each source holding a District Permit to Operate) or 2c (for each source affected by the revision). If a major facility applies for a synthetic minor operating permit prior to the date on which it would become subject to the annual major facility review fee described above, the facility shall pay, in addition to the application fee, the equivalent of one year of annual fees for each source holding a District Permit to Operate.

- a. SYNTHETIC MINOR FILING FEE ~~\$507~~\$558 per application
- b. SYNTHETIC MINOR INITIAL PERMIT FEE ~~\$355~~\$391 per source
- c. SYNTHETIC MINOR REVISION FEE..... ~~\$355~~\$391 per source modified

3. MFR APPLICATION FEES

Each facility that applies for or is required to undergo: an initial MFR permit, an amendment to an MFR permit, a minor or significant revision to an MFR permit, a reopening of an MFR permit or a renewal of an MFR permit shall pay, with the application and in addition to any other fees required by this regulation, the applicable fees according to 3a-h below. The fees in 3b and 3g apply to each source in the initial or renewal permit, while the fees in 3d-f apply to each source affected by the revision or reopening.

- a. MFR FILING FEE ~~\$507~~\$558 per application
- b. MFR INITIAL PERMIT FEE..... ~~\$491~~\$540 per source
- c. MFR ADMINISTRATIVE AMENDMENT FEE ~~\$144~~\$158 per application
- d. MFR MINOR REVISION FEE ~~\$720~~\$792 per source modified
- e. MFR SIGNIFICANT REVISION FEE ~~\$1,343~~\$1,477 per source modified
- f. MFR REOPENING FEE ~~\$440~~\$484 per source modified
- g. MFR RENEWAL FEE..... ~~\$214~~\$235 per source

Each facility that requests a permit shield or a revision to a permit shield under the provisions of Regulation 2, Rule 6 shall pay the following fee for each source (or group of sources, if the requirements for these sources are grouped together in a single table in the MFR permit) that is covered by the requested shield. This fee shall be paid in addition to any other applicable fees.

- h. MFR PERMIT SHIELD FEE ~~\$757~~\$833 per shielded source or group of sources

4. MFR PUBLIC NOTICE FEES

Each facility that is required to undergo a public notice related to any permit action pursuant to Regulation 2-6 shall pay the following fee upon receipt of a District invoice.

MFR PUBLIC NOTICE FEE Cost of Publication

5. MFR PUBLIC HEARING FEES

If a public hearing is required for any MFR permit action, the facility shall pay the following fees upon receipt of a District invoice.

a. MFR PUBLIC HEARING FEE Cost of Public Hearing not to exceed ~~\$8,746~~\$9,621

b. NOTICE OF PUBLIC HEARING FEE Cost of distributing Notice of Public Hearing

6. POTENTIAL TO EMIT DEMONSTRATION FEE

Each facility that makes a potential to emit demonstration under Regulation 2-6-312 in order to avoid the requirement for an MFR permit shall pay the following fee:

a. PTE DEMONSTRATION FEE ~~\$86~~\$95 per source, not to exceed ~~\$8,518~~\$9,370

(Amended 6/15/94; 10/8/97; 7/1/98; 5/19/99; 6/7/00; 6/6/01, 5/1/02, 5/21/03;
6/2/04; 6/15/05; 6/7/06; 5/2/07; 5/21/08; 5/20/09)

SCHEDULE Q
EXCAVATION OF CONTAMINATED SOIL AND
REMOVAL OF UNDERGROUND STORAGE TANKS
(Adopted January 5, 1994)

1. Persons excavating contaminated soil or removing underground storage tanks subject to the provisions of Regulation 8, Rule 40, Section 401, 402, 403 or 405 are subject to the following fee:
 - a. OPERATION FEE: ~~\$134~~\$141

(Amended 7/19/00; 8/1/01, 6/5/02, 7/2/03; 6/2/04; 6/6/07; 5/21/08; 5/20/09)

**SCHEDULE R
EQUIPMENT REGISTRATION FEES**

1. Persons operating commercial cooking equipment who are required to register equipment as required by District rules are subject to the following fees:
 - a. Conveyorized Charbroiler REGISTRATION FEE: ~~\$360~~\$378 per facility
 - b. Conveyorized Charbroiler ANNUAL RENEWAL FEE: ~~\$100~~\$105 per facility
 - c. Under-fired Charbroiler REGISTRATION FEE: ~~\$360~~\$378 per facility
 - d. Under-fired Charbroiler ANNUAL RENEWAL FEE: ~~\$100~~\$105 per facility

 2. Persons operating non-halogenated dry cleaning equipment who are required to register equipment as required by District rules are subject to the following fees:
 - a. Dry Cleaning Machine REGISTRATION FEE: ~~\$180~~\$189
 - b. Dry Cleaning Machine ANNUAL RENEWAL FEE: ~~\$125~~\$131

 3. Persons operating diesel engines who are required to register equipment as required by District or State rules are subject to the following fees:
 - a. Diesel Engine REGISTRATION FEE: ~~\$120~~\$126
 - b. Diesel Engine ANNUAL RENEWAL FEE: ~~\$80~~\$84

 4. Persons operating boilers, steam generators and process heaters who are required to register equipment by District Regulation 9-7-404 are subject to the following fees:
 - a. Each facility operating a boiler, steam generator or process heater subject to Regulation 9-7-404 ONE-TIME REGISTRATION FEE ~~\$425~~\$446 per facility
 - b. Each boiler, steam generator or process heater subject to Regulation 9-7-404, after the first ONE-TIME REGISTRATION FEE ~~\$50~~\$53 per device

 5. Persons owning or operating graphic arts operations who are required to register equipment by District Regulation 8-20-408 are subject to the following fees:
 - a. REGISTRATION FEE: ~~\$215~~\$226
 - b. ANNUAL RENEWAL FEE: ~~\$135~~\$142

 6. Persons owning or operating mobile refinishing operations who are required to register by District Regulation 8-45-4 are subject to the following fees:
 - a. REGISTRATION FEE ~~\$100~~\$105
 - b. ANNUAL RENEWAL FEE ~~\$60~~\$63
- (Adopted 7/6/07; Amended 12/5/07; 5/21/08; 7/30/08; 11/19/08; 12/3/08; 5/20/09)

**SCHEDULE S
NATURALLY OCCURRING ASBESTOS OPERATIONS**

1. ASBESTOS DUST MITIGATION PLAN PROCESSING FEE:

Any person submitting an Asbestos Dust Mitigation Plan (ADMP) for review of an Naturally Occurring Asbestos (NOA) project shall pay the following fee (including NOA Discovery Notifications which would trigger an ADMP review): ~~\$267~~\$280

2. AIR MONITORING PROCESSING FEE:

NOA projects requiring an Air Monitoring component as part of the ADMP approval are subject to the following fee in addition to the ADMP fee: ~~\$2,369~~\$2,487

(Adopted 6/6/07; Amended 5/21/08; 5/20/09)

**SCHEDULE T
GREENHOUSE GAS FEES**

For each permitted facility emitting greenhouse gases, the fee shall be based on the following:

1. Carbon Dioxide Equivalent (CDE) Emissions ~~\$0.045~~\$0.048 per metric ton

Emissions calculated by the APCO shall be based on the data reported for the most recent 12-month period prior to billing. The annual emissions of each greenhouse gas (GHG) listed below shall be determined by the APCO for each permitted (i.e., non-exempt) source. For each emitted GHG, the CDE emissions shall be determined by multiplying the annual GHG emissions by the applicable Global Warming Potential (GWP) value. The GHG fee for each facility shall be based on the sum of the CDE emissions for all GHGs emitted by the facility, except that no fee shall be assessed for emissions of biogenic carbon dioxide.

Direct Global Warming Potential Relative to Carbon Dioxide*

| GHG | GWP** |
|---------------------|--------|
| Carbon Dioxide | 1 |
| Methane | 21 |
| Nitrous Oxide | 310 |
| HCFC-22 | 1,500 |
| HCFC-123 | 90 |
| HCFC-124 | 470 |
| HCFC-142b | 1,800 |
| HFC-23 | 11,700 |
| HFC-32 | 650 |
| HFC-125 | 2,800 |
| HFC-134a | 1,300 |
| HFC-143a | 3,800 |
| HFC-152a | 140 |
| HFC-227ea | 2,900 |
| HFC-236fa | 6,300 |
| HFC-43-1-mee | 1,300 |
| PFC-14 | 6,500 |
| PFC-116 | 9,200 |
| PFC-218 | 7,000 |
| PFC-318 | 8,700 |
| PFC-3-1-10 | 7,000 |
| PFC-5-1-14 | 7,400 |
| Sulfur Hexafluoride | 23,900 |

* Source: Intergovernmental Panel on Climate Change (Second Assessment Report: Climate Change 1995).

** GWPs compare the integrated radiative forcing over a specified period (i.e., 100 years) from a unit mass pulse emission to compare the potential climate change associated with emissions of different GHGs.

(Adopted 5/21/08; Amended 5/20/09)

**SCHEDULE U
INDIRECT SOURCE REVIEW FEES**

The applicant for any project deemed an indirect source pursuant to District rules shall be subject to the following fees:

1. APPLICATION FILING FEE

When an applicant files an Air Quality Impact Assessment as required by District rules, the applicant shall pay a non-refundable Application Filing Fee as follows:

- | | |
|--|-------------------------------|
| a. Residential project: | \$533 <u>\$560</u> |
| b. Non-residential or mixed use project: | \$796 <u>\$836</u> |

2. APPLICATION EVALUATION FEE

Every applicant who files an Air Quality Impact Assessment as required by District rules shall pay an evaluation fee for the review of an air quality analysis and the determination of Offsite Emission Reduction Fees necessary for off-site emission reductions. The Application Evaluation fee will be calculated using the actual staff hours expended and the prevailing weighted labor rate. The Application Filing fee, which assumes eight hours of staff time for residential projects and twelve hours of staff time for non-residential and mixed use projects, shall be credited towards the actual Application Evaluation Fee.

3. OFFSITE EMISSION REDUCTION FEE

(To be determined)

(Adopted May 20, 2009)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: June 1, 2010

Re: Final Public Hearing and Consideration of Adoption of the Proposed Air
District Budget for Fiscal Year Ending 2011

RECOMMENDED ACTION:

Conduct final public hearing and adopt the Air District Proposed Budget for Fiscal Year Ending 2011.

SUMMARY

Pursuant to Health and Safety Code Section 40131 the Executive Officer/APCO will present the Fiscal Year 2010/2011 proposed operating budget to the Board of Directors for adoption.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No impact on current year budget. The proposed consolidated budget for Fiscal Year 2010/2011 is \$109,552,356.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO