



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

BOARD OF DIRECTORS  
REGULAR MEETING  
MARCH 16, 2011

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

**Questions About  
an Agenda Item**

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

**Meeting Procedures**

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

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

## Public Comment Procedures

Persons wishing to make public comment must fill out a Public Comment Card indicating their name and the number of the agenda item on which they wish to speak, or that they intend to address the Board on matters not on the Agenda for the meeting.

**Public Comment on Non-Agenda Matters, Pursuant to Government Code Section 54954.3** For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to commencement of the meeting. The remainder of the speakers wishing to address the Board on non-agenda matters will be heard at the end of the agenda, and each will be allowed three minutes to address the Board at that time.

Members of the Board may engage only in very brief dialogue regarding non-agenda matters, and may refer issues raised to District staff for handling. In addition, the Chairperson may refer issues raised to appropriate Board Committees to be placed on a future agenda for discussion.

**Public Comment on Agenda Items** After the initial public comment on non-agenda matters, the public may comment on each item on the agenda as the item is taken up. Public Comment Cards for items on the agenda must be submitted in person to the Clerk of the Boards at the location of the meeting and prior to the Board taking up the particular item. Where an item was moved from the Consent Calendar to an Action item, no speaker who has already spoken on that item will be entitled to speak to that item again.

Up to ten (10) speakers may speak for three minutes on each item on the Agenda. If there are more than ten persons interested in speaking on an item on the agenda, the Chairperson or other Board Member presiding at the meeting may limit the public comment for all speakers to fewer than three minutes per speaker, or make other rules to ensure that all speakers have an equal opportunity to be heard. Speakers are permitted to yield their time to one other speaker; however no one speaker shall have more than six minutes. The Chairperson or other Board Member presiding at the meeting may, with the consent of persons representing both sides of an issue, allocate a block of time (not to exceed six minutes) to each side to present their issue.

# BOARD OF DIRECTORS REGULAR MEETING A G E N D A

**WEDNESDAY  
MARCH 16, 2011  
9:45 A.M.**

**BOARD ROOM  
7TH FLOOR  
939 ELLIS ST**

## **CALL TO ORDER**

Opening Comments  
Roll Call  
Pledge of Allegiance  
Oath of Office/Swearing-In of New Board Member

Chairperson, Tom Bates  
Clerk of the Boards

## **PUBLIC COMMENT ON NON-AGENDA MATTERS**

### **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

*For the first round of public comment on non-agenda matters at the beginning of the agenda, ten persons selected by a drawing by the Clerk of the Boards from among the Public Comment Cards indicating they wish to speak on matters not on the agenda for the meeting will have three minutes each to address the Board on matters not on the agenda. For this first round of public comments on non-agenda matters, all Public Comment Cards must be submitted in person to the Clerk of the Board at the location of the meeting and prior to commencement of the meeting.*

## **CONSENT CALENDAR (ITEMS 1 – 5)**

Staff/Phone (415) 749-

1. Minutes of March 2, 2011

**L. Harper/5073**  
[lharp@baaqmd.gov](mailto:lharp@baaqmd.gov)

2. Communications

**J. Broadbent/5052**  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Information only.*

3. Referral of Proposed Budget for Fiscal Year Ending 2012 to the Budget and Finance Committee

**J. Broadbent/5052**  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Section 29064 of the Government Code, the Board shall refer the proposed budget for Fiscal Year Ending 2012 to the Budget and Finance Committee for review and consideration.*

4. Resolution to Authorize the Executive Officer/APCO to Enter into a Contract with Caltrans on Behalf of the Air District for an Environmental Justice Transportation Planning Grant

**D. Breen/5041**  
[dbreen@baaqmd.gov](mailto:dbreen@baaqmd.gov)

*Staff will request Board of Directors authorization for the Executive Officer/APCO to enter into a contract with Caltrans as part of an application for funding under a solicitation for Environmental Justice Transportation Planning grants.*

5. Subordination request from City of Novato

D. Glasser/4771  
[dglasser@baaqmd.gov](mailto:dglasser@baaqmd.gov)

*The Board of Directors will consider approving a subordination agreement with the City of Novato to allow its Redevelopment Agency to issue bonded debt.*

### **COMMITTEE REPORTS AND RECOMMENDATIONS**

6. Report of the **Stationary Source Committee** Meeting of March 3, 2011

CHAIR: G. UILKEMA

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

7. Report of the **Public Outreach Committee** Meeting of March 3, 2011

CHAIR: M. ROSS

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee recommends Board of Directors approval of the following:*

A. Spare the Air Contract:

1. *Approval for the Executive Officer/APCO to enter into contract extensions for the 2011 Summer Spare the Air campaigns, the Smoking Vehicle Assistance Program, Grants, Resource Teams and Employer Program.*

B. Public Engagement Policy and Plan:

1. *Approval for the Executive Officer/APCO to enter into a contract with Kearns and West in an amount not to exceed \$200,000 to assist staff with the development of a District-wide Public Engagement Policy and Plan.*

C. Breathmobile Services:

1. *Approval for the Executive Officer/APCO to enter into a contract with the Prescott-Joseph Center in the amount of \$215,000 to support the expansion of Breathmobile services into the Bayview Hunters Point neighborhood.*

8. Report of the **Legislative Committee** Meeting of March 7, 2011

CHAIR: S. GARNER

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

*The Committee recommends Board of Directors approval of staff recommended positions, except revising its recommended position on AB 343 (Atkins) and AB 710 (Skinner) from "Support" to "Watch."*

9. Report of the **Climate Protection Committee** Meeting of March 7, 2011

CHAIR: J. HOSTERMAN

J. Broadbent/5052  
[jbroadbent@baaqmd.gov](mailto:jbroadbent@baaqmd.gov)

## **PRESENTATION**

10. What's in the Air We Breathe and How Do We Measure It?

E. Stevenson/4695  
[estevenson@baaqmd.gov](mailto:estevenson@baaqmd.gov)

*The Board of Directors will receive a presentation about ambient air quality and the Air District's air quality monitoring program. An air monitoring trailer will be available for viewing at the Air District office.*

## **CLOSED SESSION**

11. **CONFERENCE WITH LABOR NEGOTIATORS** (*Government Code § 54957.6(a)*)

*Agency Negotiators: Jack P. Broadbent, Executive Officer/APCO  
Jack M. Colbourn, Director of Administrative Services*

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

12. **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.) California Building Industry Association v. Bay Area AQMD, San Francisco Superior Court, Case No. RG 10548693

## **OPEN SESSION**

### **PUBLIC COMMENT ON NON-AGENDA MATTERS**

#### **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

*Speakers who did not have the opportunity to address the Board in the first round of comments on non-agenda matters will be allowed three minutes each to address the Board on non-agenda matters.*

### **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)*

### **OTHER BUSINESS**

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

15. Time and Place of Next Meeting – 9:45 A.M. Wednesday, April 6, 2011 – 939 Ellis Streets, San Francisco, CA
16. Adjournment

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

**(415) 749-5130**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://www.baaqmd.gov)

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

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

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

**MARCH 2011**

| <b><u>TYPE OF MEETING</u></b>  | <b><u>DAY</u></b> | <b><u>DATE</u></b> | <b><u>TIME</u></b> | <b><u>ROOM</u></b>                  |
|--|-------------------|--------------------|--------------------|-------------------------------------|
| <b>Board of Directors Personnel Committee</b> <i>(At the Call of the Chair)</i><br>– RESCHEDULED TO MONDAY, MARCH 28, 2011 | Monday            | 14                 | 9:30 a.m.          | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Regular Meeting</b><br><i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i>    | Wednesday         | 16                 | 9:45 a.m.          | Board Room                          |
| <b>Board of Directors Budget &amp; Finance Committee</b> <i>(At the Call of the Chair)</i>                                 | Wednesday         | 23                 | 1:00 p.m.          | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>                        | Thursday          | 24                 | 9:30 a.m.          | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Personnel Committee</b> <i>(At the Call of the Chair)</i>  | Monday            | 28                 | 1:00 p.m.          | 4 <sup>th</sup> Floor<br>Conf. Room |

**APRIL 2011**

| <b><u>TYPE OF MEETING</u></b>   | <b><u>DAY</u></b> | <b><u>DATE</u></b> | <b><u>TIME</u></b>                       | <b><u>ROOM</u></b>                  |
|---|-------------------|--------------------|--|-------------------------------------|
| <b>Board of Directors Public Outreach Committee</b> <i>(At the Call of the Chair)</i>                                   | Monday            | 4                  | 9:30 a.m.                                | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Regular Meeting</b><br><i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i> | Wednesday         | 6                  | 9:45 a.m.                                | Board Room                          |
| <b>Board of Directors Executive Committee</b> <i>(At the Call of the Chair)</i>   | Monday            | 11                 | 9:30 a.m.                                | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Advisory Council Meeting</b>   | Wednesday         | 13                 | 9:00 a.m.                                | Board Room                          |
| <b>Board of Directors Regular Meeting</b><br><i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i> | Wednesday         | 20                 | 9:45 a.m.                                | Board Room                          |
| <b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>                     | Thursday          | 28                 | 9:30 a.m.                                | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Budget &amp; Finance Committee</b> <i>(At the Call of the Chair)</i>                              | Thursday          | 28                 | 11:00 a.m.<br>Following<br>Mobile Source | 4 <sup>th</sup> Floor Conf. Room    |

## MAY 2011

| <u>TYPE OF MEETING</u>  | <u>DAY</u> | <u>DATE</u> | <u>TIME</u> | <u>ROOM</u>                         |
|---|------------|-------------|-------------|-------------------------------------|
| <b>Board of Directors Regular Meeting</b><br><i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i> | Wednesday  | 4           | 9:45 a.m.   | Board Room                          |
| <b>Board of Directors Regular Meeting</b><br><i>(Meets 1<sup>st</sup> &amp; 3<sup>rd</sup> Wednesday of each Month)</i> | Wednesday  | 18          | 9:45 a.m.   | Board Room                          |
| <b>Board of Directors Budget &amp; Finance Committee</b> <i>(At the Call of the Chair)</i>                              | Wednesday  | 25          | 1:00 p.m.   | 4 <sup>th</sup> Floor<br>Conf. Room |
| <b>Board of Directors Mobile Source Committee</b> <i>(Meets 4<sup>th</sup> Thursday each Month)</i>                     | Thursday   | 26          | 9:30 a.m.   | 4 <sup>th</sup> Floor<br>Conf. Room |

HL – 3/2/11 (11:15 a.m.)

P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2011

Re: Board of Directors Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors Regular Meeting of March 2, 2011.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of March 2, 2011.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

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

Board of Directors Regular Meeting  
March 2, 2011

## **DRAFT MINUTES**

**CALL TO ORDER:** Chairperson Tom Bates called the regular meeting to order at 9:45 a.m. without an initial quorum.

**PLEDGE OF ALLEGIANCE:** Chairperson Bates led the Pledge of Allegiance.

Roll Call: Chairperson Tom Bates; and Directors Carole Groom, Scott Haggerty, Jennifer Hosterman, David Hudson, Carol Klatt, Nate Miley, Johanna Partin, Mark Ross, Gayle B. Uilkema, and Ken Yeager

Absent: Vice Chairperson John Gioia, Secretary Ash Kalra, Harold Brown, Susan Garner, Susan Gorin, Liz Kniss, Eric Mar, Brad Wagenknecht and Shirlee Zane

Chairperson Bates requested items be taken out of order until a quorum was established.

### **OTHER BUSINESS**

#### **8. Report of the Executive Officer/APCO:**

Executive Officer/APCO Jack Broadbent reported that staff is making progress in relocation efforts. He said the MTC Commission has approved an award of a real estate broker contract for transactional services to CB Richard Ellis at their January 26, 2011 meeting. Staff has met with the broker and they plan to issue an RFP to building owners to develop a list of viable alternatives for all agencies to consider. When this work moves ahead, staff will report to the joint Committee of the different boards and discuss viable options. He said it looks like there are viable options in both San Francisco and Oakland.

Mr. Broadbent said that yesterday marked the close of the Winter Spare the Air season, which has proven to be a relatively clean year. There was 1 exceedance and 4 Winter Spare the Air nights called. Staff will review the wood smoke curtailment program, and a full report on the Winter Spare the Air program will be presented to the Board at an April Board meeting.

#### **9. Chairperson's Report:**

Chairperson Bates welcomed two new Board Members; Johanna Partin, Senior Policy Advisor for Mayor Edwin Lee in the City and County of San Francisco, and Susan Gorin, Councilmember with

the City of Santa Rosa. Chairperson Bates noted that Ms. Gorin was due to arrive at the meeting shortly. He also announced that San Francisco Supervisor John Avalos is expected to join the Board of Directors on April 6, 2011.

Chairperson Bates requested Board Member interest in attending the Air and Waste Management Conference, scheduled June 21 to June 24, 2011 in Orlando, Florida.

**Noted Present:**

Chairperson Bates recognized the establishment of a quorum with the arrival of Secretary Ash Kalra, and thereafter, Directors Eric Mar, Susan Garner, Liz Kniss, and Susan Gorin also arrived.

**PRESENTATION:**

**7. Advisory Council Report on the October 13, 2010 Meeting on California's 2050 GHG Emission Reduction Target of 80% below 1990 Levels – Strategies and Technologies for the Transportation Sector**

Deputy APCO Jean Roggenkamp introduced Advisory Council Chairperson Ken Blonski and the Advisory Council report will be presented by members Jennifer Bard and Dr. John Holtzclaw which will focus on Advisory Council recommendations for strategies and technologies to reduce emissions in the transportation sector.

Ms. Bard and Dr. Holtzclaw gave a presentation on strategies and technologies for the transportation sector to reduce GHG emissions by 80% below 1990 levels by 2050. They indicated that the Advisory Council received presentations from:

- Stuart Cohen, co-founder and Executive Director of TransForm
- Jeff Tumlin, Principal for Nelson\Nygaard Consulting Associates
- Simon Mui, Scientist, Clean Vehicles and Fuels, National Resources Defense Council

The Advisory Council developed 15 recommendations, as follows:

1. Work with MTC and ABAG to condition transportation and development investments and grants upon implementation of parking reform. The Air District should also include parking reform policies in development of an indirect source rule.

They presented an example of a parking lot, which reveals that the cost of individual parking spaces equals \$20,000 per space.

2. Work with MTC to analyze induced demand impacts from MTC's HOT Lane network expansion (study being done by MTC consultant Parsons Brinkerhoff). Modeling does not currently, but should, include a range of impacts of induced demand or increased housing at suburban fringe. The Air District should recommend that net revenues from HOT lanes be used for expanded non-highway transit and transit choices, rather than expansion of the highway system.

They presented a map showing areas in the region that have the highest cost of transportation of up to \$16,000 annually per family. The lowest costs were identified in the urban core at about \$6,000 annually, as reported by TransForm's report, *Windfall for All*.

3. Work with MTC to consider adoption of a quantification tool that evaluates a broad range of public health impacts and benefits from transportation and land use policies and decisions. The Air District should also encourage MTC to conduct a performance-based analysis of transportation projects to ensure investments are cost effective.

They presented a chart from a webinar from the American Public Health Association on Transportation and Health Impacts, showing a direct correlation between increase in vehicle miles traveled and the increase in obesity rates. Transportation related impacts cost hundreds of billions of dollars relating to vehicle accidents, air pollution, and physical inactivity.

4. Through the Air District's role in the Joint Policy Committee, encourage MTC to evaluate all transportation projects, including projects in previous Regional Transportation Plans (RTP), for impacts on VMT and potential to induce growth. The Air District should encourage MTC to only include SCS/ RTP projects that do not increase personal VMT and do not induce sprawl.

They presented a map showing the most expensive areas to live in also have the highest carbon emissions. It shows that by living in a transit-oriented area, transportation cost and carbon emissions are lowest.

5. Develop a social marketing campaign to increase walking, cycling, and transit, based on latest research of proven strategies that affect behavior change, including comparison-with-neighbor policies.

They indicated many utilities send out energy savings tips and comparisons of usage within a few blocks of households. A start-up in Silicon Valley, called Innovations, allows one to compare their utility bills with neighbors of similar household size.

6. Seek state legislation requiring CMAs to expand their mission statement from primarily "congestion management" to include a major emphasis on reducing GHG and to enable a focus on: health; increasing mode share of walking, cycling, and transit; and on reducing VMT, rather than managing congestion.
7. Develop a toolkit for planners, local agencies, and CMAs for land use and transportation policies that have the greatest public health, air quality, and GHG reduction benefits.

Next, an example of a development was shown with local conveniences spread out, necessitating more driving time and congestion. More cluster development will enable people to shop, go to school, work and recreate with much less driving, less turns, reduced parking, land area, arterial turning movements and trips, and less vehicle miles traveled.

8. Promote the use of cool paving materials, such as high albedo materials, for future outdoor surfaces, such as parking lots, median barriers, and roadway improvements to reduce urban heat island effects and to save energy.

9. Use MTC's SB 375 implementation planning funds for local community planning processes.

Director Ross confirmed with Ms. Bard that "high albedo" refers to light colored materials.

Planned Development Areas (PDAs) are key to affordable housing, reducing GHGs, lowering the cost of transportation and creating healthier communities.

10. Build upon SB 535 (Yee) to support development of a strong statewide ZEV mandate and incentives to help the state reach aggressive GHG reduction goals.
11. Continue to work with other agencies in regional efforts to fund and accelerate EV charging infrastructure and streamline residential charging station installation and permitting, including incentives to promote solar EV charging installations. In addition, work with cities, counties, and utility districts to assist property owners in funding charging stations through Property Assessed Clean Energy (PACE) bonds, pursuant to SB 1340 (Kehoe)

They voiced the need to promoting investment and accelerating public and private EV charging infrastructure region-wide, as well as electric vehicle technologies.

12. Promote expansion of congestion toll pricing to all other regional bridges. Revenues raised should be used to improve public transit service in those corridors.
13. Develop and promote policies and programs, including securing necessary legislative authority, to achieve significant reductions in employer-related vehicle miles traveled, including employer transportation demand management plans.
14. Support establishment of a VMT fee or gasoline tax in the Bay Area to achieve GHG, criteria pollutant, and air toxics reductions goals.
15. The Air District should continue to implement the relevant Transportation Control Measures and Leadership Platform in the 2010 Clean Air Plan.

They presented an example of land use changes in downtown San Leandro which lead to walking accessibility and easy access to employment, shopping, housing, all without the need for vehicle transportation.

#### Board Member Discussion/Comments:

Director Miley referred to Recommendation #6 and said he, Directors Hosterman and Haggerty are members of the Alameda County Transportation Commission and in their review of funding Safe Routes to Schools, best practices called out by TransForm identify the need to fund crossing guards to promote children walking and bicycling to and from school. However, MTC does not provide specific funding for crossing guards, and he suggested that MTC's requirements which impede the ability to promote these types of activities need to be removed.

Director Partin questioned and clarified that the slides presented which show high transportation costs and similar areas with high carbon emissions is taken from a presentation by Dr. Stuart Cohen's ABAG 2009 and CNT 2009 studies. Dr. Holtzclaw pointed out that data MTC has reproduced the same study data located on their website which is 3 years old and which shows very similar results.

Chairperson Bates questioned the cost effectiveness, availability, and permeability of cool paving materials. Ms. Roggenkamp noted cool paving measures are included and will be addressed in the Clean Air Plan.

Chairperson Bates thanked the Advisory Council for their work in developing recommendations and the Final Report. Mr. Broadbent reported that the Advisory Council heard presentations in October and have formed their recommendations. Staff has begun to work on a number of recommendations, such as toolkits and award of contracts for public and residential electric vehicle (EV) charging stations, as well as future efforts for legislative proposals.

Chairperson Bates suggested referring the Final Report of the Advisory Council to the Climate Protection Committee for action steps to be taken in moving forward. Director Haggerty asked that the Final Report also be presented to the Joint Policy Committee (JPC).

#### **OATH OF OFFICE/SWEARING IN OF NEW BOARD MEMBERS:**

The Clerk of the Boards administered the Oaths of Office to new Board Members Susan Gorin of the City of Santa Rosa in Sonoma County and Johanna Partin of the City and County of San Francisco.

**PUBLIC COMMENTS:** None

#### **CONSENT CALENDAR (Items 1-4):**

1. **Minutes of February 2, 2011 Regular Meeting;**
2. **Communications;**
3. **District Personnel on Out-of-State Business Travel;**
4. **Quarterly Report of Executive Office and Division Activities**

**Board Action:** Director Uilkema made a motion to approve Consent Calendar Items 1, 2, 3, and 4; Director Hosterman seconded the motion; unanimously approved without objection.

#### **COMMITTEE REPORTS AND RECOMMENDATIONS**

5. **Report of the Maritime Sources & Ports Committee Meeting of February 24, 2011**  
Chair: N. Miley

The Maritime Sources & Ports Committee met on Thursday, February 24, 2011 and approved the minutes of September 29, 2010.

The Committee received an update on the California Air Resources Board (CARB) drayage truck rule requirements and regulatory amendments. Three (3) amendments were adopted by CARB which require more trucks to be subject to the drayage rule. The fourth amendment to delay Phase 2 of the rule was rejected by CARB. Phase 2 requires that any truck serving the Port of Oakland must be a 2007 model year vehicle by January 1, 2014.

The Committee reviewed associated grant funding impacts and the District's work with CARB to allocate I-Bond and other grant funding to help truckers with early compliance. The District is also discussing next steps with the Port of Oakland.

The Committee then received an update on CARB's shore-power rule requirements, progress of the Port of Oakland shore-power plans, incentive funding requirements and nonperformance penalties, and the current open Goods Movement Bond solicitation for Bay Area Ports.

The Committee then received an update of the Mobile Source Enforcement Program which began in the fall of 2009. Mr. James Ryden, CARB Enforcement Division Chief, spoke in support of the District's mobile source enforcement program and how it complements CARB's own efforts. This program is implemented through a Memorandum of Understanding with CARB for joint mobile source regulation enforcement at the Port of Oakland. The Committee reviewed joint inspection and enforcement activities and adherence to CARB's drayage truck regulation, truck idling regulations, ship and harbor craft regulations, portable equipment, Transportation Refrigeration Units, off-road diesel equipment, and trains and locomotives. The Committee requested the Mobile Source Enforcement Program be included in a Board Workshop.

Chairperson Miley added that the Mobile Source Enforcement Program was especially well received by CARB's Enforcement Division Chief, James Ryden, who commended staff for development of the program and cited the District's progressive work and leadership.

The next meeting is at the Call of the Chair.

Chairperson Bates thanked Director Miley and the District for their leadership and recognized the significant progress made with the Port of Oakland.

**Board Action:** Director Miley made a motion to approve the report of the Maritime Sources & Ports Committee; Director Haggerty seconded the motion; which carried unanimously without objection.

## **6. Report of the Budget & Finance Committee Meeting of February 24, 2011**

Chair: C. Groom

The Budget and Finance Committee met on February 24, 2011 and approved the minutes of January 26, 2011.

The Committee received the Air District Financial Audit Report for Fiscal Year 2009/10, reviewed financial statements which were found to be in conformity with accounting principles, discussed results of internal control over financial reporting, and compliance with major federal programs. Auditors made no recommendations this year and updated the Committee on two prior year recommendations which included: 1) implementation of Governmental Accounting Standards Board (GASB) 54 to provide more easily understood fund balance classifications and categories; and 2) for the District to perform a review of the receivable balances and include an annual analysis of their aging and potential collectability.

The Committee then considered recommending Board of Directors' authorization to award a contract for security services. The District conducted an RFP for security, and upon review and evaluation of

proposals as well as interviews, the Committee recommends that the Board of Directors authorize the Executive Officer/APCO to enter into contract with Cypress Private Security for the Lobby Security in an amount not to exceed \$171,151, for a term of twelve months, with the option of extending the contract for two additional years.

The Committee then received an Air District financial overview, including a discussion of strategies employed during FYE 2011 budget cycle to address financial challenges and implications for the coming FYE 2012 budget process.

The Committee reviewed a distribution of District vacancies by division, position, and percentages, and discussed increased efficiencies and cross training of staff to address critical position vacancies. The Committee was presented with potential saving opportunities in the services and supplies budgets and examples of program reductions, and reviewed probable targeted program reductions which staff will continue to further refine and address in the FYE 2012 budget planning process.

The next meeting of the Budget and Finance Committee is at the Call of the Chair.

Deputy APCO Jeffrey McKay said Chairperson Groom requested a presentation be made to the Board on financial challenges the District is facing, which include reduction in new permitting activity, reduction in County revenue, the use of \$2 million in reserves, and reserves nearing the lower limit of Board guidance. In January 2009, projections assumed future 10% fee increases and staff has taken a pro-active, balanced multi-faceted, multi-year response by leaving vacancies unfilled, reducing expenditures and fees, all of which compounds the cost recovery effect.

Mr. McKay presented revenues compared to budget, stating property taxes are ahead of the budget at \$200,000; grant revenue is CARB-dependent; permit fees are expected to decrease by \$1,100,000; and penalties are expected to decrease by \$100,000, for a total of \$1 million balance.

He then presented a vacancy distribution chart, showing that about 1 in every 10 positions is vacant. The Committee discussed the need to maintain and fill certain positions to meet the District's regulatory obligations. Staff is also looking to cut back on the Services and Supplies budget, consider where efficiencies can occur, and said probable targeted reductions include Spare the Air, youth outreach, event sponsorship, climate protection, and air quality planning.

Regarding reserves, assumptions used for projections include continuing to leave vacancies unfilled, services and supplies to remain at reduced values, property taxes to remain unchanged, and 5.5% fee increases versus 10% increases. Given these assumptions, the reserve will remain over 15%, with replenished reserves coming in 2014. However, with no increased cost recovery after 2011, reserves would drop significantly and incrementally down to \$2 million at the end of 2014. In summary, Mr. McKay said staff sees a need to maintain vacancies, reduce Services and Supplies and capital further, and increase fees.

Mr. Broadbent said staff recognizes that the District is not immune from the economic crisis, has been aggressive with its programs, but is getting lean. He said 85% of District costs comprise of salaries and benefits. In addition to keeping vacancies unfilled, steps are being taken to cross-train field staff for enforcement and air quality monitoring. The Employee Association contract is being opened, and important decisions will need to be made to minimize the drawdown of reserves.

Chairperson Bates thanked Chairperson Groom for her leadership and said she has proposed three future meeting dates to continue these discussions. He asked that Committee members confirm their availability with staff.

Director Hosterman discussed the District's backfilling of positions, asking employees to do more with less, while additionally asking for salary or benefit cuts, all of which have caused painful service reductions in her local agency. Chairperson Groom cited the District's approach and cooperative work towards a fair and balanced approach and said the Budget and Finance Committee's agreement is to proceed with sensitivity and caution.

Director Garner referred to the vacancy distribution chart and voiced concern with the number of vacancies in Enforcement and the District's need to secure penalty revenue. She suggested staff shift resources to address this. She had questions regarding lobby security, and Mr. Broadbent said staff had briefed the Board at its last meeting in Closed Session regarding security concerns relating to a contractual employee who is no longer in place. Regarding vacancies, Mr. Broadbent said certain divisions are affected by retiring employees more than others, and staff needs to determine how best to address and meet statutory requirements as a result. Cross-training of employees is in response to this, as well as opening up recruitments to move staff around the organization. Ms. Roggenkamp added that this is an opportunity to improve efficiencies through use of technology, as well.

Directory Miley confirmed that the Executive Committee will be briefed on the proposed contract negotiations and what is being considered. He confirmed with staff that the subject and any considerations will be agendized for Closed Session for discussion by the entire Board of Directors.

**Board Action:** Director Groom made a motion to approve the report and recommendations of the Budget and Finance Committee; Director Kniss seconded the motion; which carried unanimously without objection.

### **BOARD MEMBERS' COMMENTS**

Director Uilkema questioned the District's ability to review vapor intrusion and its impacts given the onset of higher density housing and re-use of land. Mr. Broadbent agreed to schedule an overview on a future Stationary Source or other Committee meeting agenda.

Directors Kniss, on behalf of Santa Clara County Board of Supervisors, extended appreciation to Mr. Broadbent and staff for their attendance and participation in a recent meeting regarding cement plant and quarry issues.

10. **Time and Place of Next Meeting:** 9:45 a.m., Wednesday, March 16, 2011 – 939 Ellis Street, San Francisco, CA 94109.
11. **Adjournment:** The Board of Directors meeting adjourned at 10:57 a.m.

Lisa Harper  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 2, 2011

Re: Board Communications Received from March 2 through March 15, 2011

RECOMMENDED ACTION:

Receive and file.

DISCUSSION

A list of Communications directed to the Board of Directors received by the Air District from March 2, 2011 through March 15, 2011 if any, will be at each Board Member's place at the March 16, 2011 Board meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent,  
Executive Officer/APCO

Date: March 8, 2011

Re: Referral of Proposed Budget for Fiscal Year Ending 2012 to the  
Budget & Finance Committee

---

RECOMMENED ACTION:

Refer proposed operating budget for Fiscal Year Ending 2012 to the Budget and Finance Committee for review and consideration.

BACKGROUND

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for Fiscal Year Ending 2012 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The proposed general fund budget for Fiscal Year Ending 2012 is \$61,069,891.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Bates and Members of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 16, 2011

Re: Resolution to Authorize the Executive Officer/Air Pollution Control Officer to enter into a Contract with Caltrans on behalf of the Air District for an Environmental Justice Transportation Planning Grant

RECOMMENDED ACTION

Adopt a resolution to authorize the Executive Officer/Air Pollution Control Officer to enter into a contract with Caltrans on behalf of the Bay Area Air Quality Management District (Air District) for an Environmental Justice Planning Grant.

BACKGROUND

The California Department of Transportation (Caltrans) is currently accepting applications for the FY 2011-2012 Transportation Planning Grants funding cycle. The Air District intends to submit an application under one of the four eligible funding categories - Environmental Justice Transportation Planning. The Air District proposal will be to assist two communities identified in the Air District's Community Air Risk Evaluation Program (CARE) in their development of Community Risk Reduction Plans (CRRPs).

DISCUSSION

CRRPs will mitigate the air quality impacts associated with exposures to outdoor toxic air contaminants in high-density, transit-oriented development through land use planning. The two communities that will be the focus of the Air District's proposal are those areas of San Francisco and San Jose that are in close proximity to high volume roadways. These communities were selected because they are the only two communities identified in the CARE program that have already commenced with CRRPs but require further assistance from the Air District in completing these plans. The Air District will be requesting \$250,000 in grant funding from Caltrans in its proposal. The Air District will match these funds with \$18,750 and an additional \$6,250 in in-kind contributions. Proposals are due to Caltrans on March 30, 2011.

In order for the Air District to accept Caltrans funding a resolution of local support from the Air District's Board of Directors is required. Specifically, this resolution must state the title of the person authorized to enter into a contract with Caltrans.

BUDGET CONSIDERATION / FINANCIAL IMPACT

None. Administrative funding for this project will consist of pass-through monies from Caltrans and matching funds from the Air District's general fund. General fund matching dollars have been included in the budget for fiscal year (FY) 2011/2012.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Joseph Steinberger  
Reviewed by: Damian Breen

Attachment 1: Resolution Authorizing Executive Officer/APCO to Contract with  
Caltrans for Environmental Justice Transportation Planning Grants  
Resolution No. 2011-

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**RESOLUTION NO. 2011-\_\_\_\_\_**

**A Resolution of the  
Board of Directors of the Bay Area Air Quality Management District  
Authorizing The Executive Officer/APCO to Contract with Caltrans for  
Environmental Justice Transportation Planning Grants**

WHEREAS, the purpose of this Resolution is to authorize the Executive Officer/Air Pollution Control Officer to enter into a contract with the California Department of Transportation (Caltrans) on behalf of the Air District for an Environmental Justice Transportation Planning Grant;

WHEREAS, the Bay Area Air Quality Management District (herein referred to as APPLICANT) is submitting an application to Caltrans for \$250,000 in funding from the Transportation Planning Grants – Environmental Justice Transportation Planning program (herein referred to as PROGRAM) for the Sustainable Communities in Priority Development Areas project (herein referred to as PROJECT);

WHEREAS, Caltrans will make available up to \$3 million in State Highway Account funds with a cap of \$250,000 per grant issued to promote community involvement in planning to improve mobility, access, and safety while promoting economic opportunity, equity, environmental protection, and affordable housing for low-income, minority, and Native American communities;

WHEREAS, Caltrans requires a minimum match in funding of ten (10) percent (%) in non-federal funds and that at least 7.5% of the amount requested must be provided as cash match and the remainder (2.5%) may be provided as in-kind match;

WHEREAS, the APPLICANT's proposal would require \$18,750 in cash match and \$6,250 in in-kind match,

WHEREAS, proposals to Caltrans must be submitted by 5:00 pm, Wednesday, March 30, 2011;

WHEREAS, APPLICANT is an eligible project sponsor for PROGRAM funds; and

WHEREAS, pursuant to Caltrans requirements, eligible project sponsors wishing to receive PROGRAM funds for a project shall submit a resolution from the applicant's governing board stating the title of the person authorized to enter into a contract with Caltrans.

NOW, THEREFORE, BE IT RESOLVED that the APPLICANT is authorized to execute and file an application for funding for the PROJECT under the PROGRAM;

NOW, THEREFORE, BE IT FURTHER RESOLVED that the APPLICANT by adopting this resolution does hereby state that:

1. APPLICANT will provide \$18,750 in non-federal matching funds; and
2. APPLICANT will provide \$6,250 in in-kind match;
3. APPLICANT is an eligible sponsor of PROGRAM funded projects;
4. APPLICANT is authorized to submit an application for PROGRAM funds for the PROJECT;
5. There is no legal impediment to APPLICANT making applications for the funds;
6. There is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT;
7. APPLICANT authorizes its Executive Director/Air Pollution Control Officer or designee to execute and file an application with Caltrans for the PROJECT as referenced in this resolution;
8. APPLICANT authorizes its Executive Director/Air Pollution Control Officer or designee to enter into a contract with Caltrans on behalf of the Air District for a Transportation Planning Grants - Environmental Justice Transportation Planning Grant.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote of the Board:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
 Tom Bates  
 Chair of the Board of Directors

ATTEST:

\_\_\_\_\_  
 Ash Kalra  
 Secretary of the Board of Directors

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Memorandum

To: Chairperson Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 8, 2011

Re: Subordination request from the City of Novato

RECOMMENDED ACTION

Approve the subordination request.

DISCUSSION

The City of Novato has requested that the District approve a subordination agreement to allow its Redevelopment Agency (the “Agency”) to issue bonded debt. The City has also provided the District with an analysis indicating that the Agency can reasonably expect to have sufficient funds available to pay both debt service on the bonds and all of the Agency’s Statutory Pass-through Payments owed to the various affected taxing entities in the Agency’s project area.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: David Glasser  
Reviewed by: Jack M. Colbourn



THE CITY OF  
NOVATO  
CALIFORNIA

75 Rowland Way, #200  
Novato, CA 94945-3232  
415/899-8900  
FAX 415/899-8213  
[www.ci.novato.ca.us](http://www.ci.novato.ca.us)

January 20, 2011

Bay Area Quality Control Management District  
Attention: Mary Ann Goodley, Executive Office Manager  
939 Ellis St.  
San Francisco, CA 94109

Mayor  
Jeanne MacLeamy  
Mayor Pro Tem  
Carole Dillon-Knutson  
Councilmembers  
Pat Eklund  
Madeline Kellner  
Denise Athas

Re: Subordination Request Relating to Proposed Bond Issues for the  
Hamilton Field Redevelopment Project Area and Downtown  
Redevelopment Project Area of the Redevelopment Agency of the  
City of Novato

City Manager  
Michael Frank

Dear Ms. Goodley:

I am writing to you on behalf of the Redevelopment Agency of the City of Novato (the "Agency") pursuant to Section 33607.5(e) of the California Health and Safety Code (the "Code"). As you are aware, the Agency may, with a taxing entity's approval, subordinate amounts (payable from tax increments of a redevelopment project area) that the Agency is required to pay such taxing entity pursuant to Section 33607.5 of the Code (the "Statutory Pass-through Payments") to bonds issued by the Agency for the same project area. At this time, the Agency is expecting to issue two new series of bonds (the "Bonds") to be secured by the Agency's tax increment revenues from the Agency's Hamilton Field Redevelopment Project Area and the Agency's Downtown Redevelopment Project Area (the "Project Areas"). By this letter, the Agency requests that the Bay Area Quality Control Management District agree to the subordination of Statutory Pass-through Payments that the Agency is required to pay the Bay Area Quality Control Management District in connection with the Project Areas to the Agency's payment obligations for the Bonds.

The Agency is planning to issue the Bonds in calendar year 2011. Enclosed for your review, pursuant to Section 33607.5(2)(e) of the Code, is a tax increment revenue projection summary, which includes a passthrough coverage analysis prepared by Urban Analytics LLC (the "Fiscal Consultant"). The Fiscal Consultant's report shows that the Agency can reasonably expect to have sufficient funds available to pay both debt service on the Bonds and all of the Agency's Statutory Pass-through Payments owed to the various affected taxing entities for the Project Area.

**For the benefit of the Agency's records, please complete the attached Acknowledgement and return it to me no later than March 11, 2011. The Agency also requests that the governing board of the Bay Area Quality**

**Control Management District take official action, by resolution or motion, to formally approve the subordination.**

Please note that, in accordance with Section 33607.5(e)(3) of the Code, if the Bay Area Quality Control Management District does not respond to the requested subordination within forty-five (45) days of receipt of this letter, the subordination will be automatically deemed approved by the Bay Area Quality Control Management District and such approval shall be final and conclusive. Furthermore, to disapprove this subordination, the Bay Area Quality Control Management District must find, based on substantial evidence, that the Agency will not be able to pay the debt service on the Bonds and the Statutory Pass-through Payments that it is required to pay the Bay Area Quality Control Management District.

Thank you in advance for your cooperation in this matter. If you have any questions regarding this matter, please do not hesitate to contact me at (415) 899-8900.

Sincerely,



---

Cathy Capriola, Acting Executive Director  
on behalf of the Redevelopment Agency of  
the City of Novato

Encl's.

---

---

**ACKNOWLEDGEMENT**

*(Redevelopment Agency of the City of Novato Hamilton Field and Downtown Redevelopment Project Areas)*

In response to the request by Redevelopment Agency of the City of Novato (the "Agency") set forth in a letter dated \_\_\_\_\_ from \_\_\_\_\_, the Agency's \_\_\_\_\_ (the "Subordination Request"), to approve the Agency's subordination of Statutory Pass-through Payments, the Bay Area Quality Control Management District hereby confirms its approval of the subordination of the Agency's obligation to pay Statutory Pass-through Payments to Bay Area Quality Control Management District in connection with the Hamilton Field Redevelopment Project Area and Downtown Redevelopment Project Area to the Agency's payment obligations for the Bonds.

The governing board of the Bay Area Quality Control Management District has taken formal action on \_\_\_\_\_, 2011, to acknowledge and approve this subordination. A copy of the related [resolution / minute] is enclosed.

All capitalized terms used but not defined in this Acknowledgement have the meaning ascribed to them in the Subordination Request.

IN WITNESS WHEREOF, the undersigned has caused this Acknowledgement to be signed by its authorized representative on this \_\_\_\_ day of \_\_\_\_\_, 2011.

**Bay Area Quality Control Management District**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Novato Redevelopment Agency  
Tax Increment Projections for the Hamilton Original Project Area (AV Growth Rate of 2.00%)

| Fiscal Year | Gross Tax Increment | Housing Set-Aside | County Admin. Fee | MCCD Mitigation Payment | Fire Mitigation Payment | County Settlement Agreement Payment | Debt Service, 2005 Bonds | Proposed Debt Service, 2011 Bonds | Net Tax Available For Bonding | Revenue From Housing | Revenue From Supplemental Assessments | Available Revenue | County Mitigation Agreement Payment | AB1290 Payments | Total Subordinated Payments | Passthrough Coverage |
|-------------|---------------------|-------------------|-------------------|-------------------------|-------------------------|-------------------------------------|--------------------------|-----------------------------------|-------------------------------|----------------------|---------------------------------------|-------------------|-------------------------------------|-----------------|-----------------------------|----------------------|
| 2010/11     | 4,117,832           | (823,566)         | (64,586)          | 0                       | 0                       | (175,379)                           | (1,471,856)              | (498,589)                         | 1,083,256                     | 500,000              | 0                                     | 1,583,756         | 0                                   | (823,566)       | (823,566)                   | 1.92                 |
| 2011/12     | 4,148,824           | (829,765)         | (65,173)          | 0                       | 0                       | (179,333)                           | (1,473,125)              | (1,221,613)                       | 379,816                       | 500,000              | 0                                     | 879,816           | 0                                   | (829,765)       | (829,765)                   | 1.06                 |
| 2012/13     | 4,231,760           | (846,932)         | (66,476)          | 0                       | 0                       | (189,814)                           | (1,473,000)              | (1,230,800)                       | 425,218                       | 506,164              | 0                                     | 931,382           | 0                                   | (846,932)       | (846,932)                   | 1.10                 |
| 2013/14     | 4,316,354           | (863,271)         | (67,809)          | 0                       | 0                       | (197,882)                           | (1,470,688)              | (1,274,575)                       | 442,304                       | 523,774              | 0                                     | 967,548           | 0                                   | (863,271)       | (863,271)                   | 1.11                 |
| 2014/15     | 4,402,641           | (880,528)         | (69,160)          | 0                       | 0                       | (206,612)                           | (1,469,778)              | (1,306,375)                       | 470,589                       | 533,710              | 0                                     | 1,004,299         | 0                                   | (880,528)       | (880,528)                   | 1.11                 |
| 2015/16     | 4,490,653           | (898,131)         | (70,542)          | 0                       | 0                       | (215,333)                           | (1,472,553)              | (1,341,488)                       | 493,334                       | 544,456              | 0                                     | 1,037,790         | 0                                   | (898,131)       | (898,131)                   | 1.11                 |
| 2016/17     | 4,580,425           | (916,085)         | (71,933)          | 0                       | 0                       | (223,167)                           | (1,473,628)              | (1,384,513)                       | 511,080                       | 555,479              | 0                                     | 1,066,559         | 0                                   | (916,085)       | (916,085)                   | 1.10                 |
| 2017/18     | 4,671,993           | (934,399)         | (73,391)          | 0                       | 0                       | (231,000)                           | (1,477,084)              | (1,419,263)                       | 535,957                       | 561,961              | 0                                     | 1,097,918         | 0                                   | (934,399)       | (934,399)                   | 1.10                 |
| 2018/19     | 4,765,392           | (953,078)         | (74,858)          | 0                       | 0                       | (238,898)                           | (1,481,240)              | (1,466,513)                       | 556,651                       | 574,381              | 0                                     | 1,131,032         | 0                                   | (953,078)       | (953,078)                   | 1.09                 |
| 2019/20     | 4,860,660           | (972,132)         | (76,355)          | 0                       | 0                       | (246,898)                           | (1,485,884)              | (1,499,463)                       | 582,272                       | 582,272              | 0                                     | 1,164,544         | 0                                   | (972,132)       | (972,132)                   | 1.09                 |
| 2020/21     | 4,957,832           | (991,566)         | (77,881)          | 0                       | 0                       | (255,162)                           | (1,491,109)              | (1,534,663)                       | 597,452                       | 595,552              | 0                                     | 1,193,004         | 0                                   | (991,566)       | (991,566)                   | 1.08                 |
| 2021/22     | 5,056,948           | (1,011,390)       | (79,438)          | 0                       | 0                       | (263,614)                           | (1,496,803)              | (1,585,738)                       | 604,137                       | 604,137              | 0                                     | 1,220,274         | 0                                   | (1,011,390)     | (1,011,390)                 | 1.08                 |
| 2022/23     | 5,158,046           | (1,031,609)       | (81,026)          | 0                       | 0                       | (272,256)                           | (1,478,623)              | (1,523,238)                       | 765,294                       | 500,000              | 0                                     | 1,265,294         | 0                                   | (1,031,609)     | (1,031,609)                 | 1.08                 |
| 2023/24     | 5,261,167           | (1,052,233)       | (82,646)          | 0                       | 0                       | (280,991)                           | (1,476,435)              | (1,573,213)                       | 788,548                       | 507,897              | 0                                     | 1,296,445         | 0                                   | (1,052,233)     | (1,052,233)                 | 1.08                 |
| 2024/25     | 5,365,349           | (1,073,270)       | (84,299)          | 0                       | 0                       | (289,843)                           | (1,482,205)              | (1,629,063)                       | 809,291                       | 521,813              | 0                                     | 1,331,104         | 0                                   | (1,073,270)     | (1,073,270)                 | 1.07                 |
| 2025/26     | 5,473,656           | (1,094,227)       | (85,984)          | 0                       | 0                       | (298,855)                           | (1,487,240)              | (1,715,039)                       | 838,292                       | 531,535              | 0                                     | 1,369,828         | 0                                   | (1,094,227)     | (1,094,227)                 | 1.07                 |
| 2026/27     | 5,586,068           | (1,116,614)       | (87,703)          | 0                       | 0                       | (308,000)                           | (1,491,240)              | (1,809,600)                       | 864,787                       | 542,008              | 0                                     | 1,406,795         | 0                                   | (1,116,614)     | (1,116,614)                 | 1.06                 |
| 2027/28     | 5,694,688           | (1,138,938)       | (89,456)          | 0                       | 0                       | (317,231)                           | (1,494,800)              | (1,902,088)                       | 893,290                       | 553,110              | 0                                     | 1,446,400         | 0                                   | (1,138,938)     | (1,138,938)                 | 1.06                 |
| 2028/29     | 5,808,542           | (1,161,708)       | (91,245)          | 0                       | 0                       | (326,466)                           | (1,498,300)              | (1,994,800)                       | 924,105                       | 560,358              | 0                                     | 1,484,464         | 0                                   | (1,161,708)     | (1,161,708)                 | 1.06                 |
| 2029/30     | 5,928,672           | (1,184,934)       | (93,069)          | 0                       | 0                       | (335,703)                           | (1,496,775)              | (2,087,788)                       | 959,960                       | 565,117              | 0                                     | 1,525,077         | 0                                   | (1,184,934)     | (1,184,934)                 | 1.06                 |
| 2030/31     | 6,043,124           | (1,208,625)       | (94,920)          | 0                       | 0                       | (345,051)                           | (1,495,225)              | (2,181,800)                       | 1,002,339                     | 565,078              | 0                                     | 1,566,417         | 0                                   | (1,208,625)     | (1,208,625)                 | 1.06                 |
| 2031/32     | 6,163,946           | (1,232,789)       | (96,828)          | 0                       | 0                       | (354,403)                           | (1,493,650)              | (2,276,275)                       | 1,047,275                     | 586,070              | 0                                     | 1,610,345         | 0                                   | (1,232,789)     | (1,232,789)                 | 1.06                 |
| 2032/33     | 6,287,185           | (1,257,437)       | (98,764)          | (232,160)               | (585,830)               | (374,949)                           | (1,501,300)              | (2,371,225)                       | 1,094,440                     | 586,070              | 0                                     | 1,651,510         | 0                                   | (1,257,437)     | (1,257,437)                 | 1.06                 |
| 2033/34     | 6,412,868           | (1,282,578)       | (100,738)         | (235,917)               | (592,727)               | (425,239)                           | (1,510,025)              | (2,466,600)                       | 1,146,069                     | 522,452              | 0                                     | 1,693,521         | 0                                   | (1,282,578)     | (1,282,578)                 | 1.06                 |
| 2034/35     | 6,541,105           | (1,308,221)       | (102,752)         | (238,709)               | (599,741)               | (475,709)                           | (1,518,750)              | (2,561,500)                       | 1,196,069                     | 509,426              | 0                                     | 1,735,495         | 0                                   | (1,308,221)     | (1,308,221)                 | 1.01                 |
| 2035/36     | 6,671,886           | (1,334,377)       | (104,897)         | (241,557)               | (606,895)               | (527,231)                           | (1,527,475)              | (2,656,500)                       | 1,245,277                     | 1,116,947            | 0                                     | 1,777,224         | 0                                   | (1,334,377)     | (1,334,377)                 | 1.02                 |
| 2036/37     | 6,805,283           | (1,361,057)       | (106,902)         | (244,461)               | (614,182)               | (574,233)                           | (1,536,200)              | (2,751,000)                       | 1,294,440                     | 1,094,242            | 0                                     | 1,816,682         | 0                                   | (1,361,057)     | (1,361,057)                 | 1.34                 |
| 2037/38     | 6,941,348           | (1,388,270)       | (109,040)         | (247,424)               | (621,636)               | (528,285)                           | (1,544,925)              | (2,845,500)                       | 1,342,664                     | 1,077,248            | 0                                     | 1,855,912         | 0                                   | (1,388,270)     | (1,388,270)                 | 1.28                 |
| 2038/39     | 7,080,135           | (1,416,027)       | (111,200)         | (250,446)               | (629,228)               | (494,541)                           | (1,553,650)              | (2,940,000)                       | 1,391,497                     | 1,061,854            | 0                                     | 1,895,351         | 0                                   | (1,416,027)     | (1,416,027)                 | 1.34                 |
| 2039/40     | 7,221,697           | (1,444,339)       | (113,444)         | (253,458)               | (635,972)               | (465,022)                           | (1,562,375)              | (3,034,500)                       | 1,439,945                     | 1,045,290            | 0                                     | 1,934,235         | 0                                   | (1,444,339)     | (1,444,339)                 | 1.39                 |
| 2040/41     | 7,366,060           | (1,473,218)       | (115,712)         | (256,471)               | (644,871)               | (435,672)                           | (1,571,100)              | (3,128,000)                       | 1,488,414                     | 1,027,497            | 0                                     | 1,972,911         | 0                                   | (1,473,218)     | (1,473,218)                 | 1.44                 |
| 2041/42     | 7,513,371           | (1,502,674)       | (118,025)         | (259,479)               | (653,928)               | (406,556)                           | (1,579,825)              | (3,221,500)                       | 1,537,809                     | 1,008,414            | 0                                     | 2,011,223         | 0                                   | (1,502,674)     | (1,502,674)                 | 1.49                 |
| 2042/43     | 7,663,598           | (1,532,720)       | (120,385)         | (262,483)               | (663,150)               | (377,657)                           | (1,588,550)              | (3,315,000)                       | 1,587,253                     | 987,979              | 0                                     | 2,049,232         | 0                                   | (1,532,720)     | (1,532,720)                 | 2.48                 |
| 2043/44     | 7,816,829           | (1,563,366)       | (122,792)         | (265,486)               | (672,538)               | (348,500)                           | (1,597,275)              | (3,408,500)                       | 1,636,702                     | 966,126              | 0                                     | 2,086,828         | 0                                   | (1,563,366)     | (1,563,366)                 | 2.39                 |
| 2044/45     | 7,973,125           | (1,594,623)       | (125,248)         | (268,489)               | (681,799)               | (319,350)                           | (1,606,000)              | (3,501,000)                       | 1,686,150                     | 945,276              | 0                                     | 2,123,426         | 0                                   | (1,594,623)     | (1,594,623)                 | 2.35                 |
| 2045/46     | 8,132,547           | (1,626,509)       | (127,752)         | (271,492)               | (691,060)               | (290,190)                           | (1,614,725)              | (3,593,500)                       | 1,735,600                     | 924,324              | 0                                     | 2,160,924         | 0                                   | (1,626,509)     | (1,626,509)                 | 2.12                 |
| 2046/47     | 8,295,157           | (1,659,031)       | (130,306)         | (274,495)               | (700,321)               | (260,940)                           | (1,623,450)              | (3,685,000)                       | 1,784,050                     | 903,372              | 0                                     | 2,198,422         | 0                                   | (1,659,031)     | (1,659,031)                 | 2.10                 |
| 2047/48     | 8,461,020           | (1,692,204)       | (132,912)         | (277,498)               | (709,572)               | (231,690)                           | (1,632,175)              | (3,776,500)                       | 1,832,500                     | 882,420              | 0                                     | 2,236,920         | 0                                   | (1,692,204)     | (1,692,204)                 | 2.08                 |
| 2048/49     | 8,630,199           | (1,726,049)       | (135,569)         | (280,501)               | (718,823)               | (202,440)                           | (1,640,900)              | (3,868,000)                       | 1,880,950                     | 861,468              | 0                                     | 2,275,418         | 0                                   | (1,726,049)     | (1,726,049)                 | 2.06                 |
| 2049/50     | 8,802,644           | (1,760,404)       | (138,231)         | (283,504)               | (728,074)               | (173,190)                           | (1,649,625)              | (3,960,500)                       | 1,929,400                     | 840,516              | 0                                     | 2,314,916         | 0                                   | (1,760,404)     | (1,760,404)                 | 1.79                 |
| 2050/51     | 8,977,488           | (1,795,259)       | (140,900)         | (286,507)               | (737,325)               | (143,940)                           | (1,658,350)              | (4,052,000)                       | 1,978,850                     | 819,564              | 0                                     | 2,354,414         | 0                                   | (1,795,259)     | (1,795,259)                 | 1.49                 |
| Total       | 236,852,014         | (67,378,403)      | (8,721,273)       | (4,376,268)             | (10,995,079)            | (21,887,487)                        | (35,593,931)             | (48,337,199)                      | 64,802,436                    | 25,937,773           | 0                                     | 90,759,609        | 0                                   | (60,205,453)    | (61,086,978)                |                      |

Novato Redevelopment Agency  
Tax Increment Projections for the Downtown Project Area (AV Growth Rate of 2.00%)

| Fiscal Year | Gross Tax Increment | Housing Set-Aside | County Admin. Fee | Net Tax Increment Available For Bonding | Proposed Debt Service, 2011 | Net Tax Revenue From Supplemental Assessments | MCU Payments | Net Tax Increment Available to Agency | AB1290 Passthrough Payments (Without Offsets) | Passthrough Coverage |
|-------------|---------------------|-------------------|-------------------|---|-----------------------------|---|--------------|---------------------------------------|---|----------------------|
| 2010/11     | 1,879,733           | (375,947)         | (51,293)          | 1,452,494                               | (290,893)                   |   | (21,838)     | 1,139,763                             | (409,284)                                     | 2.78                 |
| 2011/12     | 1,904,186           | (380,837)         | (51,960)          | 1,471,389                               | (738,143)                   |   | (22,057)     | 691,190                               | (417,895)                                     | 1.65                 |
| 2012/13     | 1,969,625           | (395,925)         | (53,746)          | 1,521,954                               | (771,193)                   |   | (22,641)     | 728,120                               | (440,939)                                     | 1.65                 |
| 2013/14     | 2,036,372           | (407,274)         | (55,567)          | 1,573,530                               | (775,568)                   |   |              | 776,225                               | (464,444)                                     | 1.67                 |
| 2014/15     | 2,104,454           | (420,891)         | (57,425)          | 1,626,138                               | (770,368)                   |   |              | 831,925                               | (488,419)                                     | 1.70                 |
| 2015/16     | 2,173,897           | (434,797)         | (59,320)          | 1,679,798                               | (771,968)                   |   |              | 883,564                               | (512,873)                                     | 1.72                 |
| 2016/17     | 2,244,730           | (448,946)         | (61,252)          | 1,734,532                               | (768,143)                   |   |              | 941,289                               | (537,817)                                     | 1.75                 |
| 2017/18     | 2,316,979           | (463,366)         | (63,224)          | 1,790,369                               | (768,893)                   |   |              | 997,544                               | (562,259)                                     | 1.77                 |
| 2018/19     | 2,390,673           | (478,135)         | (65,235)          | 1,847,304                               | (939,303)                   |   |              | 881,598                               | (569,211)                                     | 1.50                 |
| 2019/20     | 2,465,842           | (493,168)         | (67,286)          | 1,905,387                               | (939,728)                   |   |              | 938,584                               | (615,681)                                     | 1.52                 |
| 2020/21     | 2,542,513           | (508,503)         | (69,378)          | 1,964,632                               | (939,328)                   |   |              | 1,038,500                             | (642,681)                                     | 1.55                 |
| 2021/22     | 2,620,718           | (524,144)         | (71,512)          | 2,025,062                               | (938,103)                   |   |              | 1,116,476                             | (670,220)                                     | 1.58                 |
| 2022/23     | 2,700,487           | (540,097)         | (73,689)          | 2,086,701                               | (941,093)                   |   |              | 1,176,770                             | (698,311)                                     | 1.60                 |
| 2023/24     | 2,781,851           | (556,370)         | (75,909)          | 2,149,572                               | (942,903)                   |   |              | 1,249,407                             | (756,188)                                     | 1.63                 |
| 2024/25     | 2,864,843           | (572,969)         | (78,174)          | 2,213,701                               | (933,653)                   |   |              | 1,313,862                             | (785,998)                                     | 1.67                 |
| 2025/26     | 2,949,494           | (589,899)         | (80,483)          | 2,279,112                               | (933,853)                   |   |              | 1,370,710                             | (816,404)                                     | 1.68                 |
| 2026/27     | 3,035,839           | (607,168)         | (82,840)          | 2,345,832                               | (942,953)                   |   |              | 1,440,527                             | (847,418)                                     | 1.70                 |
| 2027/28     | 3,123,910           | (624,782)         | (85,243)          | 2,413,886                               | (940,403)                   |   |              | 1,512,788                             | (879,053)                                     | 1.72                 |
| 2028/29     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (936,753)                   |   |              | 1,513,664                             | (879,053)                                     | 1.72                 |
| 2029/30     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (935,878)                   |   |              | 1,510,977                             | (879,053)                                     | 1.72                 |
| 2030/31     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (938,565)                   |   |              | 1,510,014                             | (879,053)                                     | 1.72                 |
| 2031/32     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (939,528)                   |   |              | 1,510,777                             | (879,053)                                     | 1.72                 |
| 2032/33     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (938,765)                   |   |              | 1,510,777                             | (879,053)                                     | 1.72                 |
| 2033/34     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (936,278)                   |   |              | 1,513,264                             | (879,053)                                     | 1.72                 |
| 2034/35     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (937,065)                   |   |              | 1,512,477                             | (879,053)                                     | 1.72                 |
| 2035/36     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (890,840)                   |   |              | 1,558,702                             | (879,053)                                     | 1.77                 |
| 2036/37     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (913,020)                   |   |              | 1,536,522                             | (879,053)                                     | 1.75                 |
| 2037/38     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (881,540)                   |   |              | 1,568,002                             | (879,053)                                     | 1.78                 |
| 2038/39     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (904,450)                   |   |              | 1,545,092                             | (879,053)                                     | 1.76                 |
| 2039/40     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (918,395)                   |   |              | 1,531,147                             | (879,053)                                     | 1.74                 |
| 2040/41     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               | (933,680)                   |   |              | 1,515,862                             | (879,053)                                     | 1.72                 |
| 2041/42     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               |                             |   |              | 2,449,542                             | (879,053)                                     | 2.79                 |
| 2042/43     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               |                             |   |              | 2,449,542                             | (879,053)                                     | 2.79                 |
| 2043/44     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               |                             |   |              | 2,449,542                             | (879,053)                                     | 2.79                 |
| 2044/45     | 3,213,743           | (642,749)         | (87,694)          | 2,483,301                               |                             |   |              | 2,449,542                             | (879,053)                                     | 2.79                 |
| 2045/46     |                     |                   |                   |   |                             |   |              |                                       |   |                      |
| 2046/47     |                     |                   |                   |   |                             |   |              |                                       |   |                      |
| Total       | 95,526,039          | (19,105,298)      | (2,606,639)       | 73,814,102                              | (27,069,195)                |   | (1,023,004)  | 119,534,186                           | (25,048,847)                                  |                      |

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 8, 2011

Re: Report of the Stationary Source Committee Meeting of March 3, 2011

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

The Stationary Source Committee met on Thursday, March 3, 2011 and considered and received the following reports:

- A) Proposed Regulation 11, Rule 17: Limited Use Stationary Compression Ignition Engines in Agriculture Use; and
- B) Proposed Regulation 12, Rule 13: Metal Melting and Processing Facilities; and
- C) Proposed Amendments to Regulation 9, Rule 7: NO<sub>x</sub> and CO from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters

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

Chairperson Gayle Uilkema will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Vanessa Johnson  
Approved by: Jennifer C. Cooper

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Uilkema and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 16, 2011

Re: Proposed Regulation 11, Rule 17: Limited Use Stationary Compression  
Ignition Engines in Agricultural Use

---

RECOMMENDED ACTION

Receive and file.

BACKGROUND

District staff is developing a proposed new rule concerned primarily with low-use diesel driven water pumps used to protect agricultural crops from frost on cold winter nights. The California Air Resources Board (CARB) developed an Airborne Toxic Control Measure (ATCM) for agricultural diesel engines in 2006. The ATCM required existing stationary agricultural diesel engines greater than 100 HP (most engines) to meet emission standards by December 31, 2010, and those diesel engines from 50 – 100 HP to meet emissions standards by December 31, 2011. The only viable method of meeting the emission standards is to replace the engines.

The District's proposed rule is intended to provide flexibility to affected parties in meeting the requirements of the CARB ATCM. The ATCM exempts agricultural wind machines and agricultural emergency generators. However, the ATCM does not provide any other exemptions for low-use agricultural diesel engines. Vineyard owners have pointed out that the economic analysis during development of the ATCM did not properly consider rarely used stationary agricultural diesel engines, and the minimal emissions and exposure from these engines. This proposed rule is designed to address this concern.

At the September 27, 2010 Stationary Source Committee meeting, staff was directed to conduct robust outreach to affected agricultural operations and trade organizations and investigate regulatory requirements consistent with those adopted by other districts, such as Northern Sonoma County Air Pollution Control District.

DISCUSSION

In this report, staff will provide the Committee with information on:

- Extensive outreach to the agricultural community through county agricultural departments, and trade organizations like the county Farm Bureaus, grape and flower growers associations, and Western United Dairyemen's Association.

- A proposed exemption for stationary agricultural diesel engines used less than 20 hours per year.
- A proposed Alternate Compliance Plan for stationary agricultural diesel engines used less than 100 hours per year, extending compliance dates out to 2020/2025.
- Strategic Incentive Funds for early engine replacement may again become available with delayed compliance dates.
- Use of the Alternate Compliance Plan will enable engine replacement with cleaner (Tier 4) diesel engines, thus achieving greater VOC, NO<sub>x</sub>, and PM emissions than the ATCM.
- Environmental impacts of the proposed rule.
- Feedback from nine workshops conducted in eight of the nine Bay Area counties.
- Next steps in the rule development process.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Guy Gimlen  
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Uilkema and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 16, 2011

Re: Proposed Regulation 12, Rule 13: Metal Melting and Processing Facilities

RECOMMENDED ACTION

Receive and file.

BACKGROUND

There are approximately 25 to 30 facilities that conduct metal melting and processing operations in the District. These operations are subject to various federal, state and District rules and regulations. However, staff believes additional emission reductions can be achieved at these facilities. In addition, certain of these facilities are the source of community concerns. In response to these concerns and to reduce public exposure, staff developed Stationary Source Control Measure SSM 1 in the 2010 Clean Air Plan, and has evaluated these facilities. Staff has drafted a workshop proposal in an effort to further reduce emissions of air pollutants and odors.

DISCUSSION

In this report, staff will provide the Committee with information on:

- Background on metal melting and processing operations in the Bay Area;
- Summary of outreach efforts;
- Discussion of the regulatory concepts contained in the workshop proposal; and
- Next steps in the regulatory development process.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Victor Douglas  
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Uilkema and Members  
of the Stationary Source Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 16, 2011

Re: Proposed Amendments to Regulation 9, Rule 7: NO<sub>x</sub> and CO from Industrial, Institutional and Commercial Boilers, Steam Generators and Process Heaters

RECOMMENDED ACTION

Receive and file.

BACKGROUND

Regulation 9, Rule 7 limits nitrogen oxides (NO<sub>x</sub>) and carbon monoxide (CO) emissions from industrial, institutional and commercial boilers, steam generators and process heaters. This regulation was last amended in July 2008 to significantly enhance the NO<sub>x</sub> emission limits, and also to expand the applicability of the rule to a large population of previously-unregulated devices rated >2 to <10 MM BTU/hr. Two new programs were added to the rule to allow enforcement of emission requirements on this new group of heaters. First, operators of these devices, which are not subject to permit requirements, were required to register these devices using an online registration form by January 1, 2011. Second, manufacturers of these devices were required to pre-certify these devices before they could offer them for sale, also beginning January 1, 2011.

To date, no manufacturer has certified a small boiler for compliance with Regulation 9, Rule 7 standards although boilers that meet these standards have been sold in the South Coast and other air districts for some time. To address this situation, staff proposes to extend compliance dates for devices in the >2 to <10 MM BTU/hr size range until January 1, 2013. The regulation required compliance by January 1, 2011 for devices rated >2 to 5 MM BTU/hr and by January 1, 2012 for devices rated >5 to <10 MM BTU/hr. Therefore, the proposed extension is either for one year or two years depending on the size of the device.

Also, staff proposes to simplify the manufacturer certification process and to expand the acceptable test methods for certification testing.

DISCUSSION

Staff will provide the Committee with the following information:

- Background on current rule requirements and a description of affected equipment and their emissions;
- Proposed amendments to Regulation 9, Rule 7;
- Rule development process to date; and
- Remaining steps to a public hearing.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Julian Elliot  
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 8, 2011

Re: Report of the Public Outreach Committee Meeting of March 3, 2011

RECOMMENDED ACTIONS:

- A) The Committee recommends Board of Directors' approval of staff recommendations on contract extensions for the 2011 Summer Spare the Air campaigns, the Smoking Vehicle Assistance Program, Grants, Resource Teams and Employer Program;
- B) The Committee recommends Board of Directors' approval for the APCO to enter into a contract with Kearns and west in an amount not to exceed \$200,000 to assist staff with the development of a District-wide Public Engagement Policy and Plan; and
- C) The Committee recommends Board of Directors' approval for the APCO to enter into a contract with the Prescott-Joseph Center in the amount of \$215,000 to support the expansion of Breathmobile services into the Bayview Hunters Point neighborhood.

BACKGROUND

The Public Outreach Committee met on Thursday, March 3, 2011. The Committee received the following reports and recommendations:

- A) Extension of Public Outreach Campaign Contracts;
- B) Public Engagement Policy and Plan Contractor; and
- C) Expansion of Breathmobile Mobile Asthma Clinic into Southeast San Francisco CARE Neighborhood
- D) Review of the Winter Spare the Air Campaign

Attached are the staff reports presented in the Public Outreach Committee packet.

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

BUDGET CONSIDERATION/FINANCIAL IMPACT:

A) Funding for the Summer Spare the Air Advertising, Media/Public Relations and Public Opinion Research, a total of \$895,000, is funded through the Congestion Mitigation and Air Quality fund and included in the FY 2010-2011 budget;

Funding for the Resource Team Facilitation, Great Race for Clean Air, Employer and Smoking Vehicle programs, a total of \$695,000, is funded through the Transportation Fund for Clean Air and is included in the 2011/2012 proposed budget;

B) Funding for the Public Engagement Policy and Plan is included in the current year budget; and

C) Funding for the Breathmobile expansion into the Bayview will come from the 2008 Air District settlement with Lennar Corporation.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Vanessa Johnson  
Approved by: Jennifer Cooper

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: February 24, 2011

Re: Extension of Public Outreach Campaign Contracts

RECOMMENDED ACTION:

The Committee will consider recommending Board of Directors' approval of staff recommendations on contract extensions for the 2011 Summer Spare the Air campaign, the Smoking Vehicle Assistance Program, Resource Teams and Employer Program.

- Advertising Services – O'Rorke Inc.  
Summer Spare the Air -- \$600,000
- Media/Public Relations Services – MS&L Worldwide  
Summer Spare the Air -- \$250,000
- Public Opinion Research – True North Research  
Summer Spare the Air -- \$50,000
- Resource Team Facilitation – Community Focus, Tides Center Fiscal Sponsor  
Resource Team Facilitation -- \$200,000  
The Great Race for Clean Air -- \$70,000
- Employer Program Management – Community Focus, Tides Center Fiscal Sponsor  
Employer Program -- \$150,000
- Advertising Services – Riezobos Holzbaur Design Group  
Smoking Vehicle Assistance Program -- \$275,000

BACKGROUND

In Spring 2009, the Board of Directors approved one-year contracts with the option for two one-year extensions for public outreach campaigns. In March 2010, the Board of Directors approved the first one-year extension for these contracts. Staff is recommending a final one-year extension as discussed. This summer, staff will issue a new Request for Proposal for contracts beginning in the 2012 calendar year.

## DISCUSSION

The Air District's Communications and Outreach Office relies on contractors to assist with various aspects of its advertising and outreach programs. In 2009, the Communications and Outreach Office completed a Request for Proposal (RFP) process to solicit responses for advertising and outreach services. Contractors were selected for 2009-2010 contracts for the services indicated below with potential for two one-year annual extensions.

Air District staff performed a thorough evaluation of contractor performance in technical and non-technical areas including: Media Relations/Advertising, Writing/Design, Strategic Planning, Customer Service, Innovation, Program Execution and more. Staff assessed the Air District's communications support requirements for ongoing programs and made adjustments based on program needs. Based on Air District staff evaluation of contractor performance over the past year, staff is recommending the contracts be extended for an additional year and be amended in the amounts stated below.

### **Advertising Services – O'Rorke, Inc**

O'Rorke, Inc. was selected as the Advertising contractor for the Summer and Winter Spare the Air campaigns in the 2009 Request for Proposal process. O'Rorke, Inc. has a strong background in social marketing and advertising strategy. They have experience working with local government agencies to produce television, radio and print advertisements.

| <b>O'Rorke, Inc.</b>   | <b>2009</b> | <b>2010</b> | <b>2011</b> |
|--|-------------|-------------|-------------|
| Summer Spare the Air<br><i>Advertisement development, Ad placement,<br/>Promotion opportunities.</i> | \$600,000   | \$600,000   | \$600,000   |

Staff recommends the O'Rorke, Inc. Advertising Services contract for Summer Spare the Air be amended for an additional year in the amount set forth above.

### **Media/Public Relations Services – MS&L Worldwide**

MS&L Worldwide was selected as the Summer and Winter Spare the Air campaigns Media Relations Services contractor in the 2009 Request for Proposal process. MS&L Worldwide has strong expertise in media relations – including social and ethnic media, an extensive network of media contacts, and direct experience handling environmental issues for government clients.

| <b>MS&amp;L Worldwide</b>   | <b>2009</b> | <b>2010</b> | <b>2011</b> |
|---|-------------|-------------|-------------|
| Summer Spare the Air<br><i>Media and Public Relations, Social Media</i> | \$250,000   | \$250,000   | \$250,000   |

Staff recommends the MS&L Worldwide Media/Public Relations Services contract be amended for an additional year in the amount set forth above.

### **Public Opinion Research – True North Research**

True North Research was selected as the Public Opinion Research contractor for the Summer and Winter Spare the Air campaigns in the 2009 Request for Proposal process. True North Research has experience conducting public opinion polling to assess behavior change around

environmental issues. True North has developed methodologies to gauge the effectiveness of the Summer and Winter Spare the Air programs.

| <b>True North Research</b>   | <b>2009</b> | <b>2010</b> | <b>2011</b> |
|--|-------------|-------------|-------------|
| Summer Spare the Air<br><i>Episodic Public Opinion Survey</i>                            | \$50,000    | \$70,000    | \$45,000    |
| Explanation for Change:<br>2010-2011 extension included survey for the Employer Program. |             |             |             |

Staff recommends the True North Research Measurement and Public Opinion Survey contract for Summer Spare the Air be amended for an additional year in the amount set forth above.

**Resource Team and Employer Program Management – Community Focus, Tides Center Fiscal Sponsor**, facilitates the existing nine Air District Resource Teams located in Alameda, Contra Costa, Napa, San Francisco, San Mateo, Santa Clara and Sonoma counties. The Resource Teams have become an integral part of the Air District’s community-based efforts to improve air quality and a cost effective way to garner community, public, business and local government support for developing innovative regional clean air projects.

| <b>Community Focus</b>  | <b>2009</b> | <b>2010</b> | <b>2011</b> |
|---|-------------|-------------|-------------|
| Resource Team Facilitation  | \$200,000   | \$200,000   | \$200,000   |
| The Great Race regional campaign  |             | \$70,000    | \$70,000    |
| Employer Program  |             | *\$68,000   | \$150,000   |
| Explanation for Change:<br>In FY10-11 Community Focus ran a successful “Great Race” event promoting reduction of single occupancy driving among Bay Area employers. Due to the success of this project, Community Focus’s expertise working with employers, and contacts made throughout this project, staff recommends expanding the scope of the contract to include management of the Employer Program for the full year.<br>*Partial year |             |             |             |

Staff recommends the Community Focus contract be amended for an additional year in the amount set forth above.

**Advertising Services – Riezobos Holzbaur Design Group**

Riezobos Holzbaur Design Group was selected as the advertising contractor for the Smoking Vehicle, Vehicle Buy Back, and Grants and Incentives programs in the 2009 Request for Proposal Process. Riezobos Holzbaur Design Group has strong experience in social marketing and advertising strategy. They have experience working with local government agencies to produce television, radio, digital and print advertisements.

| <b>Riezobos Holzbaur Design Group</b>  | <b>2009</b> | <b>2010</b> | <b>2011</b> |
|--|-------------|-------------|-------------|
| Smoking Vehicle<br><i>Outreach strategy development, ad development, ad placement, additional outreach</i> | \$275,000   | \$275,000   | \$275,000   |

Staff recommends the Riezobos Holzbaur Design Group Smoking Vehicles and the Grants and Incentives Program contract be amended for an additional year in the amount set forth above.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funding for the Summer Spare the Air Advertising, Media/Public Relations and Public Opinion Research, a total of \$895,000, is funded through the Congestion Mitigation and Air Quality fund and included in the FY 2010-2011 budget.

Funding for the Resource Team Facilitation, Great Race for Clean Air, Employer and Smoking Vehicle programs, a total of \$695,000, is funded through the Transportation Fund for Clean Air and is included in the 2011/2012 proposed budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Ana Sandoval  
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: February 24, 2011

Re: Public Engagement Policy and Plan Contractor

RECOMMENDED ACTION:

The Committee will consider recommending Board of Directors approval for the APCO to enter into a contract with Kearns and West in an amount not to exceed \$200,000 to assist staff with the development of a District-wide Public Engagement Policy and Plan.

BACKGROUND

In fall 2010, staff briefed the Committee on plans to develop a comprehensive, District-wide *Public Engagement Policy and Plan*. The purpose of this plan is to provide the District-adopted, consistent approach when engaging stakeholders in District activities through public processes.

The purpose of the *project* is to:

- Ensure consistency across District programs;
- Develop comprehensive set of strategies for communicating with stakeholders;
- Address range of Air District programs; and
- Incorporate applicable Federal and State guidance regarding public participation into public engagement procedures.

Staff has conducted a request for qualifications and has selected a recommended contractor for this project.

DISCUSSION

On December 23, 2010, staff issued a Request for Qualifications for assistance in developing a District-wide Public Engagement Policy and Plan. Staff held a bidders' conference on January 13, 2011 which thirteen potential bidders attended. The RFQ closed on January 19, 2011.

***Submissions Received***

The Air District received the following nine submissions of Statements of Qualifications in response to the RFQ:

1. AECOM
2. America Speaks in partnership with Town Green and Davenport Institute
3. Barbary Coast Consulting
4. Center for Collaborative Policy at Cal. State Univ. Sacramento in partnership with Community Focus and Language World Service

5. Creighton and Creighton in partnership with the Participation Company, LLC
6. Davis and Associates
7. Kearns and West in partnership with Hope Road Consulting
8. MIG, Inc. in partnership with Jungle Communications
9. PMC World in partnership with Tramutola

### ***Evaluation for Minimum Qualifications***

Air District staff reviewed the submissions for minimum qualifications, which required bidders and their lead staff to have worked on three similar projects in the last five years. All nine submissions were deemed to meet the minimum qualifications.

### ***Review of Statements of Qualification***

A panel of five Air District staff representing various District divisions reviewed and scored the nine statements of qualifications in order to select candidates for interviews. Statements of Qualifications were scored according to the following criteria:

- Overall firm and proposed staff expertise; experience in relation to the areas of expertise sought by the Air District (60 points);
- Specific qualifications of lead staff for indicated tasks (20 points);
- Communication skills and presentation effectiveness, including the abilities to write and present both qualitative and quantitative information in a clear and illustrative manner (5 points);
- Hourly rates (5 points);
- Completeness and clarity of SOQ (5 points); and
- Demonstration of a Quality Assurance process in developing a work product (5 points).

Based on rankings by the evaluation panel, the following three submissions were selected for interviews:

- Center for Collaborative Policy in partnership with Community Focus
- Kearns and West in partnership with Hope Road Consulting
- MIG in partnership with Jungle Communications

Center for Collaborative Policy withdrew from the selection process due to a conflicting deadline with another project.

### ***Interview of Finalists***

A panel of five individuals interviewed the two finalists. The panel was composed three Air District staff persons representing various District divisions, a representative from the Metropolitan Transportation Commission, and a representative from the Bay Area Environmental Health Collaborative.

The scoring and total points for each interview question are contained in the following table.

**TABLE 2: Interview Scoring and Total Points**

| <b>Evaluative Criteria</b>   | <b>MIG<br/>Average Score by<br/>Panelists</b> | <b>Kearns and West<br/>Average Score by<br/>Panelists</b> |
|--|---|---|
| Question 1 (20 points):<br>Summary of previous work with stakeholder groups identified by Air District     | 17  | 19  |
| Question 2 (5 points):<br>Example of project bringing together stakeholders from distinct cultures         | 4   | 4   |
| Question 3 (5 points):<br>Experience with groups not traditionally engaged in public processes             | 4   | 5   |
| Question 4 (25 points):<br>Presentation on previous Public Engagement Plan                                 | 19  | 22  |
| Question (25 points):<br>Approach for District project   | 17  | 22  |
| Question 6 (10 points):<br>Capacity for design of visual aids and graphics                                 | 9   | 7   |
| Question 7 (10 points):<br>Capacity for analysis of demographics of limited English proficient individuals | 9   | 8   |
| <b>Total Points</b>  | <b>78</b>                                     | <b>87</b>   |

Based on rankings by the interview panel, staff recommends the contract be awarded to Kearns and West.

Kearns & West is experienced working with local, regional, state, and federal agencies to engage diverse stakeholders in rule, policy, and plan development on environmental issues. Specifically, Kearns and West has experience working with regulatory agencies and has worked on over 40 stakeholder engagement projects in the past five years, mostly dealing with environmental and natural resource issues.

Hope Road Consulting is a public relations firm specializing in multi-lingual community engagement projects. Through demographic and relationship analysis, targeted communications, and face-to-face outreach, Hope Road Consulting has reached and engaged diverse audiences. Hope Road Consulting has extensive experience working with Chinese, Latino, African American, Russian and other communities throughout the Bay Area.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funding for the Public Engagement Policy and Plan is included in the current year budget.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Ana Sandoval  
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: February 22, 2011

Re: Expansion of Breathmobile Mobile Asthma Clinic into Southeast San Francisco  
CARE Neighborhood

---

RECOMMENDED ACTION:

The Committee will consider recommending Board of Directors approval for the APCO to enter into a contract with the Prescott-Joseph Center in the amount of \$215,000 to support the expansion of Breathmobile services into the Bayview Hunters Point neighborhood.

BACKGROUND

In 2009 the Air District conducted a series of community dialogue meetings in the Bayview Hunters Point neighborhood to identify projects the community envisioned would be beneficial to all residents in the Bayview neighborhood. Bayview residents identified three key areas of interest: 1) Air Filtration, 2) Public Education, and 3) Public Health.

In summer 2010, the Board of Directors authorized staff to implement an air filtration project in five (5) elementary schools in the Bayview neighborhood. In order to address the second and third interest areas, staff recommends supporting expansion of the Breathmobile asthma and allergy health education project to the Bayview neighborhood.

DISCUSSION

The Breathmobile is a mobile pediatric asthma and allergy clinic that provides diagnosis, education, treatment and medication for children with asthma and allergies. The Breathmobile is a project of the Prescott-Joseph Center for Community Enhancement, an Oakland-based non-profit community center. The Breathmobile project also operates in Southern California through the Asthma and Allergy Foundation of America.

The Air District sponsored the launch and operation of the first Breathmobile in the Bay Area beginning in FY 2008-2009. This Breathmobile operates in the CARE communities of Emeryville, Oakland and San Leandro. An overview of this project was presented to the Public Outreach Committee in March 2010.

Building on the success of the Breathmobile in the East Bay, staff is working with the Prescott-Joseph Center to expand Breathmobile services to elementary schools in the Bayview Hunters Point neighborhood of San Francisco, which is also a CARE impacted community.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT:

Funding for the Breathmobile expansion into the Bayview will come from the 2008 Air District settlement with Lennar Corporation.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jim Smith  
Reviewed by: Lisa Fasano

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Mark Ross and Members  
of the Public Outreach Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 22, 2011

Re: Winter Spare the Air Season Review

RECOMMENDED ACTION:

For information only.

BACKGROUND

The Air District's Communications and Outreach Office operated the *Winter Spare the Air* advertising and outreach campaign to support implementation of Regulation 6-3, Woodburning Rule. The campaign operated from November 1, 2010 through February 28, 2011. Staff will present a summary of the 2010-2011 *Winter Spare the Air* advertising and outreach program.

DISCUSSION

This year the campaign was expanded to target non-English speakers as well as the general public. Campaign messages were delivered to the public through TV, print, billboard, radio, Internet, grassroots and in-theater advertising in multiple languages. Additionally, extensive media relations were undertaken to share the campaign message via newspapers and television news. Educational materials were developed and distributed to the public via mail and at public events.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

Funding for the program was included in the FY 2010-11 Budget.

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, Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2011

Re: Report of the Legislative Committee Meeting of March 7, 2011

RECOMMENDED ACTIONS

The Committee recommends Board of Directors' approval of staff recommendations, as modified, for new, significant air quality bills.

BACKGROUND

The Legislative Committee met on Monday, March 7, 2011. The Committee received the following report and recommendations:

A) Review New Bills and Consider Recommending Positions

Attached is the staff report presented in the Legislative Committee packet which outlines recommended positions for new, significant air quality bills.

The Committee revised the recommended positions on AB 343 (Atkins) and AB 710 (Skinner) from "Support" to "Watch". The Committee also endorsed as a principal that important air quality and climate change programs not be sacrificed under the banner of regulatory reform.

Chairperson, Susan Garner will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

A) None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Lisa Harper  
Approved by: Jennifer C. Cooper

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Garner and  
Members of the Legislative Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 26, 2011

Re: CONSIDERATION OF NEW BILLS

RECOMMENDED ACTION:

Discuss new, significant air quality bills and recommend Board of Directors' positions.

BACKGROUND

The 120 members of the Legislature responded to the February 18<sup>th</sup> bill introduction deadline by introducing 2,438 bills. Many of these bills have not yet been fleshed out, but are still in spot or intent form. Bills have until May 6<sup>th</sup> or May 13<sup>th</sup> (depending on whether they have fiscal implications or not) to pass their policy committee or committees in their first house, so policy committees will hear many hundreds of bills in advance of these deadlines. All bills must be in print for 30 days prior to being heard in their first committee.

DISCUSSION

Not surprisingly given the economic climate, there are a number of bills that would weaken greenhouse gas and air quality programs and regulations. Far more of these are directed at the Air Resources Board (ARB) rather than local air districts. Staff note that the Committee decided at its last meeting that its primary legislative goal for 2011 is to minimize legislative damage to air quality programs.

Given this goal, staff are recommending positions for the Committee's consideration on a number of bills, as listed in the table below. Copies of the actual bill language are attached to this memorandum, as is a longer list of bills of air quality significance. Because this memorandum is being prepared shortly after most of these bills have been initially published, facts about many of the bills are still scarce. If more information is received on some of these before the Committee's March 7<sup>th</sup> meeting, staff may verbally suggest additional positions for the Committee to consider at its meeting.

Staff also note that several ‘regulatory reform’ efforts are underway, and different parties (including the Pro Tem’s office, the Republican Caucus of each house, and the Little Hoover Commission) are all compiling suggestions for ways to reduce the regulatory burden that businesses in California currently face. Staff expects efforts will be made to secure Republican votes for key pieces of the budget by offering different ‘regulatory reforms’. Some of these may include weakening of important air quality and climate change regulations. Such proposals may emerge prior to the Committee’s next meeting after March 7<sup>th</sup>, so staff are requesting that the Committee endorse as a principal that important air quality and climate change programs not be sacrificed under the banner of regulatory reform.

| BILL AND AUTHOR                    | SUBJECT  | STAFF RECOMMENDATION |
|------------------------------------|--|----------------------|
| AB 128<br>Logue                    | Would allow ARB to, instead of imposing an air penalty, require violators to spend an equivalent amount on actions to comply with the violated regulation or on a supplemental project | Oppose               |
| AB 333<br>Grove                    | Exempts counties with unemployment over 7% from AB 32  | Oppose               |
| AB 343<br>Atkins                   | Requires redevelopment plans to identify how redevelopment projects will help regions attain their SB 375 (GHG emission reduction) goals   | Support              |
| AB 382<br>Nestande                 | Requires all written district communications alleging violations to contain new detailed information, and imposes new requirements on inspectors                                       | Oppose               |
| AB 462<br>B.Lowenthal              | Allows air districts to use AB 923 funds to replace older CNG tanks on school buses  | Support              |
| AB 710<br>Skinner                  | Infill Development and Sustainable Community Act; eliminates excessive minimum parking requirements in infill and transit-oriented development areas                                   | Support              |
| AB 942<br>Huber and<br>B.Berryhill | Directs all penalties and fines collected by ARB into the General Fund, rather than air pollution remediation accounts   | Oppose               |
| AB 1332<br>Donnelly                | Abolishes ARB and transfers duties and obligations to CalEPA   | Oppose               |
| ABx1 2<br>Logue                    | Would allow ARB to instead of imposing an air penalty spend an equivalent amount on actions to comply with the violated regulation or on a supplemental project                        | Oppose               |
| ABx1 7<br>Logue                    | Directs all penalties and fines collected by ARB into the General Fund, rather than air pollution remediation accounts   | Oppose               |
| SB 170<br>Pavley                   | Allows South Coast Air District to receive intellectual property benefits or revenues from projects funded with grant funds controlled by the South Coast                              | Support if amended   |
| SB 209<br>Corbett                  | Prevents homeowners associations from blocking EV residential charging installation  | Support              |
| SB 582                             | Allows MPO’s and air districts to jointly adopt regional commute   | Co-Sponsor           |

|                       |  |         |
|-----------------------|--|---------|
| Emmerson              | benefit policies, with requirements on employers   |         |
| SB 724<br>Dutton      | Expands ARB's requirements and considerations when assessing penalties, and imposes new deadlines and requirements on ARB when certifying engines                      | Oppose  |
| SB 739<br>A.Lowenthal | Requires ports to assess infrastructure and air quality needs, in consultation with the local MPO and air district, specifying needed projects, funding, and timelines | Support |

ANALYSES:

**AB 128** is authored by Assemblymember Dan Logue (R-Chico). In his first two years in the Legislature, Mr. Logue has been an outspoken advocate for reducing air quality and greenhouse gas regulations on businesses. He believes reduced regulation and enforcement will improve California's economic climate, and that public health concerns about air emissions are overblown. He appears to be continuing this philosophy this year. This bill would allow ARB to, instead of charging penalties for violations, allow violators to spend an amount equivalent to the potential fine on compliance or supplemental environmental projects.

Staff are recommending an “**Oppose**” position, despite the fact that the bill is permissive rather than making a requirement on ARB. This is for two reasons. First, we believe its passage will create pressure on ARB to reduce or eliminate penalties. We think reduced penalties lead to worse compliance. Second, under current law, when companies violate air quality laws enforced by the ARB, penalty revenues are deposited into the Air Pollution Control Fund (APCF). Staff believe that this is appropriate, since the APCF is used to cut emissions, and violations cause an increase in emissions. Violators are already required to spend whatever is necessary to come into compliance, and penalties are beyond this amount. This bill would thus result in fewer emission reductions.

**AB 333** is authored by Assemblymember Shannon Grove (R-Bakersfield), and is an attempt to prevent California from moving ahead with implementation of AB 32, the Global Warming Solutions Act of 2006. Specifically, the bill would (in her own words) “relieve California businesses from the costly and burdensome regulations associated with AB 32” until the unemployment rate in the county where the business resides falls below 7% for six consecutive months. Current unemployment levels in the State average 12%, so the bill would halt ARB's regulatory climate program indefinitely. Ms. Grove believes that regulations to cut greenhouse gas emissions will cost businesses dearly and increase unemployment levels further. Because of the District's support for AB 32 and efforts to protect the climate, staff recommends an “**Oppose**” position on this bill.

**AB 343** is authored by Assemblymember Toni Atkins (D-San Diego), and is an effort to have redevelopment projects work in concert with the regional greenhouse gas reduction goals and targets established by SB 375 (Steinberg; 2008). Cities and counties are now required to consider greenhouse gases in their planning, but there is not a corresponding requirement currently for redevelopment agencies. This bill does not dictate minimum or even any reductions to be associated with redevelopment. Instead, it simply says that “every redevelopment plan shall consider and identify strategies for how redevelopment projects

will help attain the climate, air quality and energy conservations goals [per SB 375] or the applicable regional greenhouse gas emissions reduction targets.” Because of the District’s support for, and work to help implement SB 375, staff recommends a “**Support**” position.

**AB 382** is authored by Assemblymember Brian Nestande (R-Palm Desert), and would impose new and troubling requirements on air districts in both inspections and enforcement of stationary source facilities and regulations. In many ways, it is a companion bill to last year’s SB 1402 (Dutton), which was signed into law and is just now being implemented. That bill affects ARB, and has required that agency to develop a penalty policy taking certain factors into account when setting penalties or settlement amounts.

This year’s bill has two parts, both of which apply specifically to air districts. The first deals with all written communication from a district to a party alleging that a violation has occurred. It requires a detailed breakdown of how proposed penalties were calculated, a quantification of pollution emitted in excess of allowable levels, and an explanation of why the proposed penalty is most appropriate for the specific violation. Staff believes that this one-sided process will significantly weaken enforcement. Essentially, the bill establishes a one-way discovery process, which is biased in favor of violators and against public health. It will encourage companies to avoid settlement (taking cases to court instead, at significant time and monetary expense to air districts) and reduces financial incentives to comply with air quality regulations.

The second section of the bill establishes a new and detailed code of conduct for air district inspectors. Among other things, it requires them to exercise “compassion, benevolence, and fairness”, and to be “courteous at all times and in all situations.” This portion of the bill seems paternalistic, one-sided in upholding the interests of industry over public health, and overly vague.

Staff recommend an “**oppose**” position on AB 382.

**AB 462** is authored by Assemblymember Bonnie Lowenthal (D-Long Beach), and is sponsored by the South Coast Air District. It allows air districts to use incentive money (specifically the fifth and sixth dollar of the vehicle registration fee surcharge) to replace aging compressed natural gas tanks on school buses. Also, the funds can also be used to fix deteriorating natural gas dispensers for school buses, with a limit of up to \$500 per dispenser. The bill is permissive; it does not require air districts to fund these projects.

Compressed natural gas used as a transportation fuel in school buses cuts emissions in comparison to diesel fuel, and the District has promoted its use through our array of incentive funding programs. The gas is compressed and stored onboard in a tank or tanks, which have a lifespan in the range of 15 years before requiring replacement for safety reasons. A number of our school districts now have buses with aging tanks, and have requested that we provide incentive funds for their replacement. This bill would allow that, and staff recommends a “**Support**” position.

**AB 710** is authored by Assemblymember Nancy Skinner (D-Berkeley), and is titled the Infill Development and Sustainable Community Development Act of 2011. The source of the bill is the Infill Builders Association, and it encourages infill development in transit-intensive areas by reducing locally-imposed minimum parking requirements. Reducing minimum parking requirements reduces drive-alone travel, encourages transit, bicycle, and pedestrian travel, and cuts criteria and greenhouse gas emissions. Because the District has long advocated in multiple policy documents and air quality plans for reducing minimum parking requirements in areas well-served by transit, staff recommends a “**Support**” position.

**AB 942** is jointly authored by Assemblymembers Alyson Huber and Bill Berryhill (respectively, D-Lodi and R-Stockton). It requires that any fines or penalties imposed by the ARB (as well as the Department of Pesticide Regulation, the Department of Toxic Substances Control, and the State Water Resources Control Board) be placed in the General Fund. Currently, ARB fines and penalties for violations of their regulations go the Air Pollution Control Fund, which is used to cut air pollution. This longstanding situation was developed because air quality violations cause illegal and unmitigated emissions. The General Fund is not used to fund air quality programs or emission reductions, and thus this bill will result in increased emissions. Staff recommends an “**Oppose**” position.

**AB 1332** is authored by freshman Assemblymember Tim Donnelly (R-Hesperia). While a variety of his colleagues dislike the ARB and are attempting to limit or delay ARB’s programs and regulations, Mr. Donnelly is to be noted for the directness of his approach. He has gained some measure of fame for his popular YouTube video in which he disparages the ARB, and removes and shreds the section of the printed State budget funding ARB. This bill would abolish the ARB and transfer its duties, responsibilities, jurisdiction, and authority to the California Environmental Protection Agency (CalEPA). While at times District staff have been frustrated by different ARB actions and positions, staff believes air quality and public health will be better protected by the ARB than by CalEPA. Staff believes this bill is inappropriate and unwise, and recommends an “**Oppose**” position.

**ABx1 2** is authored by Assemblymember Dan Logue (R-Chico), and has language identical to AB 128. Rather than being a regular session bill, this version is introduced in the First Extraordinary Session, which was called to address California’s budget crisis. Staff recommends an “**oppose**” position on this bill for the same reasons as AB 128.

**ABx1 7** is also authored by Mr. Logue, and is another First Extraordinary Session bill. It is identical to AB 942 (Huber and Berryhill), which was discussed earlier. Staff recommends an “**Oppose**” position for identical reasons.

**SB 170** is authored by Senator Fran Pavley (D-Agoura Hills), and is sponsored by the South Coast Air District. Currently, the bill applies only to the South Coast district, although the intention is for the bill to be expanded to apply to any air district in California. The genesis for the bill is the concern of the South Coast that while they fund a wide variety of new and emerging technologies, some of which become commercial successes, they have no way currently of sharing in the good fortune if one of their funded projects produces commercially viable and lucrative technology. The South Coast would like to be able to reap some financial reward for their investment, which they can then use to fund new clean technologies. The bill would allow the South Coast to negotiate revenue sharing agreements

with grant recipients. Of course, this District and others also fund and help develop new technologies with incentive funds. Thus staff is recommending a “**Support if amended**” position on the bill, if it is amended to include the other air districts.

**SB 209** is authored by Senator Ellen Corbett (D-San Leandro). It is designed to help the commercialization of pure battery and plug-in vehicles, which have significant air quality benefits. It prevents homeowners associations from preventing electric vehicle owners from installing charging infrastructure at their residences, and is modeled after similar state legislation that was adopted in Hawaii. As vehicles like the Nissan Leaf and the Chevy Volt come to market, some potential owners who live in areas governed by homeowners associations will be blocked from installing charging hardware. This bill prevents this from happening, and staff recommends a “**Support**” position.

**SB 724** is authored by Senator Bob Dutton (R-Inland Empire), and is another example of his continuing dissatisfaction with the ARB. Last year, Mr. Dutton authored SB 1402, which was also sponsored by an association of businesses subject to ARB oversight called Californians for Enforcement Reform and Transparency (CERT). CERT’s primary consultant is John Dunlap, who was Chair of ARB under Governor Pete Wilson. Last year’s bill was primarily about penalties assessed in ARB’s enforcement program. This year’s bill is primarily about ARB’s certification process of new or modified vehicles and engines in both on and off-road equipment, although it also affects penalties, by limiting the circumstances in which ARB can assess penalties for regulatory violations. The author states the bill is simply designed to ensure that ARB acts in a timely fashion on the many engine certification requests it receives. He and the sponsor believe that ARB is too slow in reviewing certification requests and that a bill to require more expeditious review is appropriate. Staff believes that requiring faster review turnarounds from ARB without an increase in certification staff or funding will simply mean that engines that do not meet emission standards will be approved before they can be tested and their deficiencies noted. Staff recommends an “**Oppose**” position.

**SB 739** is authored by Senator Alan Lowenthal (D-Long Beach), and is the latest in a string of bills over many years attempting to address air pollution and infrastructure problems at the larger ports in California. The bill is identical to SB 632 which Senator Lowenthal authored in 2009 and the District supported. It would simply require the Ports of Long Beach, Los Angeles, and Oakland to assess their infrastructure and air quality needs, in consultation with their local Metropolitan Planning Organization and Air District. They would then specify needed projects, as well as their funding and timelines. Given the District’s historic support for cutting port emissions, and our earlier support for this identical measure, staff recommends a “**Support**” position.

Per the Committee’s direction, the District is co-sponsoring a bill with the Metropolitan Transportation Commission to allow regions to impose an employer commute benefit ordinance to help implement SB 375. This bill, SB 582, is authored by Senator Bill Emmerson, a Republican representing Riverside County, and has Assemblymember Jared Huffman, a Democrat representing portions of Marin and Sonoma County, as a Principal Co-Author. A copy of the bill is attached.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Thomas Addison  
Reviewed by: Jean Roggenkamp

**ASSEMBLY BILL**

**No. 128**

---

---

**Introduced by Assembly Member Logue**

January 11, 2011

---

---

An act to add Section 39615 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 128, as introduced, Logue. State Air Resources Board: alternative actions to assessing penalties.

Existing law subjects violators of air pollution laws to specified civil and administrative penalties. Existing law imposes various duties on the State Air Resources Board relative to the reduction of air pollution.

This bill would authorize the state board, in lieu of assessing penalties for a violation of an air pollution control law administered by the state board, to require a person who has violated that law to spend an amount equivalent to the amount that would have been assessed for the violation toward actions to comply with the air pollution control law that was violated or toward a supplemental environmental project, as defined.

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

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

- 1 SECTION 1. Section 39615 is added to the Health and Safety
- 2 Code, to read:
- 3 39615. (a) In lieu of assessing penalties for a violation of an
- 4 air pollution control law administered by the state board, the state
- 5 board may require a person who has violated that law to spend an

1 amount equivalent to the amount that would have been assessed  
2 for the violation towards actions to comply with the air pollution  
3 control law that was violated or towards a supplemental  
4 environmental project, if the person has prepared a financing plan  
5 to complete the actions to comply with the air pollution control  
6 law or prepared a financing plan to complete the supplemental  
7 environmental project.

8 (b) (1) If the penalty amount exceeds fifteen thousand dollars  
9 (\$15,000), the portion of the penalty amount that may be directed  
10 to be expended on a supplemental environmental project shall not  
11 exceed fifteen thousand dollars (\$15,000) plus 50 percent of the  
12 penalty amount that exceeds fifteen thousand dollars (\$15,000).

13 (2) For purposes of this section, a “supplemental environmental  
14 project” means an environmentally beneficial project that a person  
15 agrees to undertake, with the approval of the state board, that would  
16 not be undertaken in the absence of an enforcement action under  
17 this section.

**ASSEMBLY BILL**

**No. 333**

---

---

**Introduced by Assembly Member Grove**

February 10, 2011

---

---

An act to add Section 38598.5 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as introduced, Grove. California Global Warming Solutions Act of 2006: unemployment.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions.

This bill would require the state board to exempt from an emission reduction requirement adopted pursuant to the act an emissions source located within a county that on January 1, 2012, has an unemployment rate of 7% or greater, until that county's unemployment rate drops below 7% for 6 consecutive months.

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

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

1 SECTION 1. Section 38598.5 is added to the Health and Safety  
2 Code, to read:  
3 38598.5. The state board shall exempt from an emission  
4 reduction requirement adopted pursuant to this division an  
5 emissions source located within a county that on January 1, 2012,  
6 has an unemployment rate of 7 percent or greater, until that  
7 county's unemployment rate drops below 7 percent for six  
8 consecutive months. The exemption created pursuant to this section  
9 shall not return if the unemployment rate rises above 7 percent at  
10 a later time.

O

**ASSEMBLY BILL**

**No. 343**

---

---

**Introduced by Assembly Member Atkins**

February 10, 2011

---

---

An act to add Section 33330.5 to the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 343, as introduced, Atkins. Redevelopment plans: environmental goals.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight, as defined, in those communities and requires those agencies to prepare, or cause to be prepared, and approve a redevelopment plan for each project area. Existing law requires, among other things, that each redevelopment plan be consistent with the community's general plan.

Existing law requires or authorizes metropolitan planning organizations, local governments, and local legislative bodies, to adopt greenhouse gas emission reduction targets, rezoning activities, and traffic mitigation measures for transit priority projects, respectively, in order to attain specified climate, air quality, and energy conservation goals.

This bill would require each redevelopment plan to consider and identify strategies for how redevelopment projects will help attain the climate, air quality, and energy conservation goals or applicable regional greenhouse gas emission reduction targets.

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

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

- 1 SECTION 1. Section 33330.5 is added to the Health and Safety
- 2 Code, to read:
- 3 33330.5. Every redevelopment plan shall consider and identify
- 4 strategies for how redevelopment projects will help attain the
- 5 climate, air quality, and energy conservation goals identified in
- 6 Chapter 728 of the Statutes of 2008 or the applicable regional
- 7 greenhouse gas emission reduction targets.

O

**ASSEMBLY BILL**

**No. 382**

---

---

**Introduced by Assembly Member Nestande**

February 14, 2011

---

---

An act to add Section 40722 to, and to add Part 7 (commencing with Section 44400) to Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 382, as introduced, Nestande. Air inspectors: administrative and civil penalties.

(1) Existing law establishes the State Air Resources Board, which is responsible for the control of greenhouse gas emissions and emissions from motor vehicles, and is designated the air pollution control agency for all purposes set forth in federal law. Existing law vests air pollution control districts and air quality management districts with the primary responsibility for control of air pollution from all sources other than vehicular sources.

This bill would require an inspector, as defined, acting on behalf of the state board or a district to meet certain requirements.

(2) Existing law requires a written communication from the State Air Resources Board alleging that an administrative or civil penalty will be, or could be, imposed either by the state board or another party, including the Attorney General, for a violation of air pollution law, to contain specified information, and requires this information and final mutual settlement agreements reached between the state board and a person alleged to have violated air pollution laws to be made available to the public.

This bill would apply these requirements to an air pollution control or air quality management district. Because these requirements and the requirements discussed in (1) above would impose new duties on local districts, the bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 40722 is added to the Health and Safety  
 2 Code, to read:  
 3 40722. (a) A written communication from a district alleging  
 4 that an administrative or civil penalty will be, or could be, imposed  
 5 either by the district or another party, including the Attorney  
 6 General, for a violation of air pollution law, shall contain a clear  
 7 explanation of all of the following:  
 8 (1) The manner in which the administrative or civil penalty  
 9 amount was determined, including the aggravating and mitigating  
 10 factors the district considered in arriving at the amount, and, where  
 11 applicable, the per unit or per vehicle basis for the penalty.  
 12 (2) The provision of law or regulations under which the alleged  
 13 violator is being assessed the administrative or civil penalty,  
 14 including the reason that provision is most appropriate for that  
 15 violation.  
 16 (3) Whether the administrative or civil penalty is being assessed  
 17 under a provision of law that prohibits the emission of pollution  
 18 at a specified level, and if so, a quantification of the specific  
 19 amount of pollution emitted in excess of that level, where  
 20 practicable. This quantification may be based on estimates or  
 21 emission factors.  
 22 (b) The information described in subdivision (a) and all final  
 23 mutual settlement agreements reached between a district and a

1 person alleged to have violated air pollution laws shall be made  
2 available to the public.

3 SEC. 2. Part 7 (commencing with Section 44400) is added to  
4 Division 26 of the Health and Safety Code, to read:

5

6

PART 7. INSPECTIONS

7

8 44400. (a) An inspector acting on behalf of the state board or  
9 a district shall do all of the following:

10 (1) Act in a professional manner with the honesty and integrity  
11 necessary to inspire confidence and respect for the public trust  
12 held by an inspector.

13 (2) Promote environmental and public health by performing all  
14 duties impartially and objectively without undue influence, based  
15 upon relevant statutes, regulations, standards, policies, and  
16 procedures.

17 (3) Provide to a representative of the business or individual  
18 whose activities or operations are being inspected or investigated  
19 all of the following:

20 (A) Identification.

21 (B) The statutory and regulatory authority for the inspection or  
22 investigation.

23 (C) General information regarding the inspection and  
24 enforcement process.

25 (D) Contact information to allow the business or individual to  
26 obtain more information or provide feedback.

27 (4) Treat regulated businesses and individuals and the public  
28 respectfully by being courteous at all times and in all situations.

29 (5) Exercise compassion, benevolence, and fairness during the  
30 inspection or investigation and subsequent enforcement  
31 proceedings.

32 (6) Respond to regulated businesses and individuals and the  
33 public in a manner that is complete, clear, and easy to understand.

34 (7) Assist regulated businesses and individuals and the public  
35 in their dealings with the district or state board.

36 (b) As used in this section, "inspector" means an individual  
37 inspecting or investigating an activity or operation of a business  
38 or individual to ensure compliance with air pollution laws.

39 SEC. 3. If the Commission on State Mandates determines that  
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

O

**ASSEMBLY BILL**

**No. 462**

---

---

**Introduced by Assembly Member Bonnie Lowenthal**

February 15, 2011

---

---

An act to amend Section 44229 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 462, as introduced, Bonnie Lowenthal. Air pollution: vehicular pollution.

Existing law authorizes an air pollution control district or a regional air quality management district, until January 1, 2015, to establish a fee of up to \$6 on the registration of motor vehicles registered in the district. Existing law requires the revenues from the first \$4 of the fee be used for specified purposes. Existing law requires that the revenues from the last \$2 of the fee be used for specified programs that the district determines remediate air pollution harms created by motor vehicles.

This bill would additionally authorize a district based on that determination to use the last \$2 of the fee for programs to replace onboard natural gas tanks on schoolbuses owned by a school district that are 15 years or older and to enhance deteriorating natural gas fueling dispensers of fueling infrastructures operated by a school district.

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

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

1 SECTION 1. Section 44229 of the Health and Safety Code, as  
2 amended by Section 4 of Chapter 707 of the Statutes of 2004, is  
3 amended to read:

4 44229. (a) After deducting all administrative costs it incurs  
5 through collection of fees pursuant to Section 44227, the  
6 Department of Motor Vehicles shall distribute the revenues to  
7 districts, which shall use the revenues resulting from the first four  
8 dollars (\$4) of each fee imposed to reduce air pollution from motor  
9 vehicles and to carry out related planning, monitoring, enforcement,  
10 and technical studies necessary for implementation of the California  
11 Clean Air Act of 1988. Fees collected by the Department of Motor  
12 Vehicles pursuant to this chapter shall be distributed to districts  
13 based upon the amount of fees collected from motor vehicles  
14 registered within each district.

15 (b) Notwithstanding the provisions of Section 44241 and Section  
16 44243, a district shall use the revenues resulting from the next two  
17 dollars (\$2) of each fee imposed pursuant to Section 44227 to  
18 implement the following programs that the district determines  
19 remediate air pollution harms created by motor vehicles on which  
20 the surcharge is imposed:

21 (1) Projects eligible for grants under the Carl Moyer Memorial  
22 Air Quality Standards Attainment Program (Chapter 9  
23 (commencing with Section 44275) of Part 5).

24 (2) The new purchase, retrofit, repower, or add-on equipment  
25 for previously unregulated agricultural sources of air pollution, as  
26 defined in Section 39011.5, for a minimum of three years from  
27 the date of adoption of an applicable rule or standard, or until the  
28 compliance date of that rule or standard, whichever is later, if the  
29 state board has determined that the rule or standard complies with  
30 Sections 40913, 40914, and 41503.1, after which period of time,  
31 a new purchase, retrofit, repower, or add-on of equipment shall  
32 not be funded pursuant to this chapter. The districts shall follow  
33 any guidelines developed under subdivision (a) of Section 44287  
34 for awarding grants under this program.

35 (3) The new purchase of schoolbuses pursuant to the  
36 Lower-Emission School Bus Program adopted by the state board.

1 (4) An accelerated vehicle retirement or repair program that is  
2 adopted by the state board pursuant to authority granted hereafter  
3 by the Legislature by statute.

4 (5) *The replacement of onboard natural gas fuel tanks on*  
5 *schoolbuses owned by a school district that are 15 years or older,*  
6 *not to exceed twenty thousand dollars (\$20,000) per bus.*

7 (6) *The enhancement of deteriorating natural gas fueling*  
8 *dispensers of fueling infrastructures operated by a school district*  
9 *with a one-time funding amount of up to five hundred dollars*  
10 *(\$500) per dispenser.*

11 (c) The Department of Motor Vehicles may annually expend  
12 not more than the following percentages of the fees collected  
13 pursuant to Section 44227 on administrative costs:

14 (1) During the first year after the operative date of this chapter,  
15 not more than 5 percent of the fees collected may be used for  
16 administrative costs.

17 (2) During the second year after the operative date of this  
18 chapter, not more than 3 percent of the fees collected may be used  
19 for administrative costs.

20 (3) During any year subsequent to the second year after the  
21 operative date of this chapter, not more than 1 percent of the fees  
22 collected may be used for administrative costs.

23 (d) ~~No~~A project funded by the program shall *not* be used for  
24 credit under any state or federal emissions averaging, banking, or  
25 trading program. ~~No-emission~~ *Emission* reduction generated by  
26 the program shall *not* be used as marketable emission reduction  
27 credits or to offset any emission reduction obligation of any person  
28 or entity. Projects involving new engines that would otherwise  
29 generate marketable credits under state or federal averaging,  
30 banking, and trading programs shall include transfer of credits to  
31 the engine end user and retirement of those credits toward reducing  
32 air emissions in order to qualify for funding under the program. A  
33 purchase of a ~~low-emission~~ *low-emission* vehicle or of equipment  
34 pursuant to a corporate or a controlling board's policy, but not  
35 otherwise required by law, shall generate surplus emissions  
36 reductions and may be funded by the program.

1 (e) This section shall remain in effect only until January 1, 2015,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2015, deletes or extends that date.

O

**ASSEMBLY BILL**

**No. 710**

---

---

**Introduced by Assembly Member Skinner**

February 17, 2011

---

---

An act to add Article 2 (commencing with Section 65200) to Chapter 3 of Division 1 of Title 7 of the Government Code, and to amend Section 75125 of the Public Resources Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 710, as introduced, Skinner. Local planning: infill and transit-oriented development.

(1) The Planning and Zoning Law requires specified regional transportation planning agencies to prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, and requires the regional transportation plan to include, among other things, a sustainable communities strategy, for the purpose of using local planning to reduce greenhouse gas emissions.

This bill would state the findings and declarations of the Legislature with respect to parking requirements and infill and transit-oriented development, and would state the intent of the Legislature to reduce unnecessary government regulation and to reduce the cost of development by eliminating excessive minimum parking requirements for infill and transit-oriented development.

This bill would also prohibit a city or county from requiring more than one parking space per residential unit and more than one parking space per 1,000 square feet of commercial or other nonresidential space for a residential or mixed-use residential project located in a transit intensive area, as defined, or subject to an adopted downtown area plan,

an adopted neighborhood plan, or an adopted redevelopment project area.

(2) Existing law sets forth the duties of the Strategic Growth Council, including the duty to recommend policies and investment strategies and priorities to the Governor, the Legislature, and to appropriate agencies to encourage the development of sustainable communities, as described.

This bill would modify the description of sustainable communities to additionally include communities that incentivize infill development.

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

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

1 SECTION 1. This article shall be known and may be cited as  
2 the Infill Development and Sustainable Community Act of 2011.

3 SEC. 2. (a) The Legislature finds and declares all of the  
4 following:

5 (1) Existing parking requirements are based on low density and  
6 single land uses.

7 (2) Parking is costly to build and maintain and can increase the  
8 cost of infill projects by 10 to 20 percent. The high cost of land,  
9 construction, and maintenance to provide parking adds significantly  
10 to the cost of transit-oriented development, making sites financially  
11 infeasible and hindering economic development strategies.

12 (3) Increases in public transportation options and the  
13 development of more walkable and bikeable neighborhoods reduce  
14 the demand for parking.

15 (4) Excessive governmental parking requirements for infill and  
16 transit-oriented development reduce the viability of transit by  
17 limiting the number of households or workers near transit,  
18 increasing walking distances, and degrading the pedestrian  
19 environment.

20 (5) Reducing excessive minimum parking requirements for infill  
21 and transit-oriented development and allowing builders and the  
22 market to decide how much parking is needed can do all of the  
23 following:

24 (A) Ensure sufficient amounts of parking at almost all times.

25 (B) Significantly reduce the cost of development and increase  
26 housing affordability.

1 (C) Increase density in areas with the most housing demand,  
2 and facilitate compact development and the attainment of  
3 environmental goals.

4 (b) It is the intent of the Legislature to reduce unnecessary  
5 government regulation and to reduce the cost of development by  
6 eliminating excessive minimum parking requirements for infill  
7 and transit-oriented development.

8 SEC. 3. Article 2 (commencing with Section 65200) is added  
9 to Chapter 3 of Division 1 of Title 7 of the Government Code, to  
10 read:

11  
12 Article 2. Infill Development and Sustainable Community Act  
13 of 2011  
14

15 65200. (a) A city, county, or city and county, including a  
16 charter city, shall not require more than one parking space per  
17 residential unit and more than one parking space per 1,000 square  
18 feet of commercial or other nonresidential space for a residential  
19 or mixed-use residential project located in a transit intensive area,  
20 or subject to an adopted downtown area plan, an adopted  
21 neighborhood plan, or an adopted redevelopment project area.

22 (b) For the purposes of this section, “transit intensive area”  
23 means a central business district, an area within one-half mile of  
24 a major transit stop, as defined in subdivision (b) of Section 21155  
25 of the Public Resources Code, and an area within one-quarter mile  
26 of a high-quality transit corridor, as defined in subdivision (b) of  
27 Section 21155 of the Public Resources Code.

28 SEC. 4. Section 75125 of the Public Resources Code is  
29 amended to read:

30 75125. The council shall do all of the following:

31 (a) Identify and review activities and funding programs of  
32 member state agencies that may be coordinated to improve air and  
33 water quality, improve natural resource protection, increase the  
34 availability of affordable housing, improve transportation, meet  
35 the goals of the California Global Warming Solutions Act of 2006  
36 (Division 25.5 (commencing with Section 38500) of the Health  
37 and Safety Code), encourage sustainable land use planning, and  
38 revitalize urban and community centers in a sustainable manner.  
39 At a minimum, the council shall review and comment on the  
40 five-year infrastructure plan developed pursuant to Article 2

1 (commencing with Section 13100) of Chapter 2 of Part 3 of  
 2 Division 3 of the Government Code and the State Environmental  
 3 Goals and Policy Report developed pursuant to Section 65041 of  
 4 the Government Code.

5 (b) Recommend policies and investment strategies and priorities  
 6 to the Governor, the Legislature, and to appropriate state agencies  
 7 to encourage the development of sustainable communities, such  
 8 as those communities that promote equity, strengthen the economy,  
 9 protect the environment, *incentivize infill development*, and  
 10 promote public health and safety, consistent with subdivisions (a)  
 11 and (c) of Section 75065.

12 (c) Provide, fund, and distribute data and information to local  
 13 governments and regional agencies that will assist in developing  
 14 and planning sustainable communities.

15 (d) Manage and award grants and loans to support the planning  
 16 and development of sustainable communities, pursuant to Sections  
 17 75127, 75128, and 75129. To implement this subdivision, the  
 18 council may do all of the following:

19 (1) Develop guidelines for awarding financial assistance,  
 20 including criteria for eligibility and additional consideration.

21 (2) Develop criteria for determining the amount of financial  
 22 assistance to be awarded. The council shall award a revolving loan  
 23 to an applicant for a planning project, unless the council determines  
 24 that the applicant lacks the fiscal capacity to carry out the project  
 25 without a grant. The council may establish criteria that would allow  
 26 the applicant to illustrate an ongoing commitment of financial  
 27 resources to ensure the completion of the proposed plan or project.

28 (3) Provide for payments of interest on loans made pursuant to  
 29 this article. The rate of interest shall not exceed the rate earned by  
 30 the Pooled Money Investment Board.

31 (4) Provide for the time period for repaying a loan made  
 32 pursuant to this article.

33 (5) Provide for the recovery of funds from an applicant that fails  
 34 to complete the project for which financial assistance was awarded.  
 35 The council shall direct the Controller to recover funds by any  
 36 available means.

37 (6) Provide technical assistance for application preparation.

38 (7) Designate a state agency or department to administer  
 39 technical and financial assistance programs for the disbursing of  
 40 grants and loans to support the planning and development of

1 sustainable communities, pursuant to Sections 75127, 75128, and  
2 75129.

3 (e) No later than July 1, 2010, and every year thereafter, provide  
4 a report to the Legislature that shall include, but is not limited to,  
5 all of the following:

6 (1) A list of applicants for financial assistance.

7 (2) Identification of which applications were approved.

8 (3) The amounts awarded for each approved application.

9 (4) The remaining balance of available funds.

10 (5) A report on the proposed or ongoing management of each  
11 funded project.

12 (6) Any additional minimum requirements and priorities for a  
13 project or plan proposed in a grant or loan application developed  
14 and adopted by the council pursuant to subdivision (c) of Section  
15 75126.

O

**ASSEMBLY BILL**

**No. 942**

---

---

**Introduced by Assembly Members Huber and Bill Berryhill**

February 18, 2011

---

---

An act to amend Section 13332.18 of, and to add Section 13332.185 to, the Government Code, relating to the General Fund.

LEGISLATIVE COUNSEL'S DIGEST

AB 942, as introduced, Huber. General Fund: fines.

Under existing law, with specified exceptions, revenues derived from the assessment of fines and penalties by any state agency may not be expended unless the Legislature specifically provides authority for the expenditure of these funds in the annual Budget Act or other legislation. Existing law directs that various fines and penalties be deposited in various special funds related to the agency that collected the revenue. Existing law creates the General Fund to consist of money received into the State Treasury that is not required by law to be credited to any other fund.

This bill would require, notwithstanding any other law, that any fine or penalty imposed by the Department of Pesticide Regulation, the Department of Toxic Substances Control, the State Air Resources Board, or the State Water Resources Control Board for a violation of a regulation adopted by that state agency be deposited into the General Fund. The bill would also make a statement of findings.

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

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

1 SECTION 1. (a) The agencies, boards, departments, and offices  
2 of the state generally strive to promulgate regulations that benefit  
3 the people of the state.

4 (b) The people of the state expect that their government will  
5 enact laws and promulgate regulations to protect the health and  
6 welfare of the people of this state and that these laws and  
7 regulations will tend to maximize benefits to society while  
8 minimizing costs.

9 (c) Administrative and regulatory actions can have significant  
10 and far-reaching consequences for individuals, nonprofit  
11 organizations, and businesses throughout the state.

12 (d) When the law allows the same agency responsible for  
13 seeking out violations and imposing fines to directly benefit by  
14 placing fine moneys in its operating budget, it provides an incentive  
15 for the agency to act in a manner that raises a question as to the  
16 motivation for enforcement of regulations.

17 (e) It is the exclusive province of the Legislature to determine  
18 the budget of state agencies, and, especially in times of economic  
19 despair, an agency should not be permitted to fill a budget shortfall  
20 by increasing collection of fines through regulatory activity.

21 (f) The primary object of enforcement of regulations  
22 promulgated by agencies is the protection of the people of this  
23 state, and any fines collected from enforcement of these regulations  
24 should revert to the General Fund so the Legislature may determine  
25 how those moneys will best serve the people of this state.

26 SEC. 2. Section 13332.18 of the Government Code is amended  
27 to read:

28 13332.18. (a) Notwithstanding any other ~~provision of~~ law,  
29 and except as specified in subdivision (b) *and in Section 13332.185*,  
30 revenues derived from the assessment of fines and penalties by  
31 any state agency shall not be expended unless the Legislature  
32 specifically provides authority for the expenditure of these funds  
33 in the annual Budget Act or other legislation. A fine or penalty is  
34 a charge imposed by an agency or department for wrongdoing, in  
35 excess of the cost of investigating, processing, or prosecuting the  
36 conduct for which the charge is assessed, or the cost of collecting  
37 it. A charge reasonably related to a service provided by a

1 department or agency is not a fine or penalty for purposes of this  
2 section.

3 (b) This section shall not apply to the following:

4 (1) Any governmental cost fund if the use of revenues subject  
5 to this section that are deposited in that fund for General Fund  
6 purposes is prohibited by the California Constitution or the United  
7 States Constitution.

8 (2) Late charges collected by state agencies.

9 (3) Funds collected by a state agency that are required to be  
10 maintained by that agency for purposes of administration of a  
11 federal program.

12 (4) A fund established for restitution to victims of the conduct  
13 for which the fine or penalty was imposed or for repairing damage  
14 to the environment caused by the conduct for which the fine or  
15 penalty was imposed.

16 (5) The following funds, though the omission of any other fund  
17 from the list contained in this paragraph shall not be grounds for  
18 inferring the applicability of this section:

19 (A) The Fish and Game Preservation Fund.

20 (B) The Restitution Fund.

21 (C) The Peace Officers' Training Fund.

22 (D) The Driver Training Penalty Assessment Fund.

23 (E) The Corrections Training Fund.

24 (F) The Local Public Prosecutors and Public Defenders Training  
25 Fund.

26 (G) The Victim-Witness Injury Fund.

27 (H) The Traumatic Brain Injury Fund.

28 (I) The Industrial Relations Construction Industry Enforcement  
29 Fund.

30 (J) The Workplace Health and Safety Revolving Fund.

31 (K) The Oil Spill Response Trust Fund.

32 (L) The Oil Spill Prevention and Administration Fund.

33 (M) The Environmental Enhancement Fund.

34 (N) The Recovery Account of the Real Estate Fund.

35 (O) The Motor Vehicle Account in the State Transportation  
36 Fund.

37 (P) The State Highway Account in the State Transportation  
38 Fund.

39 (Q) The Motor Vehicle License Fee Account in the  
40 Transportation Tax Fund.

1 (R) Funds for programs established pursuant to the Food and  
2 Agricultural Code that can be terminated through an industry  
3 referendum vote.

4 (c) For the purposes of this section, revenues derived from the  
5 assessment of fines and penalties includes interest accrued from  
6 the assessment of the fines and penalties.

7 SEC. 3. Section 13332.185 is added to the Government Code,  
8 to read:

9 13332.185. (a) The applicability of this section is limited to  
10 the Department of Pesticide Regulation, the Department of Toxic  
11 Substances Control, the State Air Resources Board, and the State  
12 Water Resources Control Board.

13 (b) Notwithstanding Section 13332.18 or any other law, a fine  
14 or penalty imposed by a state agency included in subdivision (a)  
15 for a violation of a regulation adopted by that state agency shall  
16 be deposited into the General Fund.

**ASSEMBLY BILL**

**No. 1332**

---

---

**Introduced by Assembly Member Donnelly**

February 18, 2011

---

---

An act to amend Section 11564 of the Government Code, and to amend Sections 38505 and 39053 of, and to repeal and add Chapter 2 (commencing with Section 39510) of Part 2 of Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1332, as introduced, Donnelly. State Air Resources Board: abolishment.

Existing law establishes the State Air Resources Board as the state agency with primary jurisdiction over the regulation of air pollution, including greenhouse gas emissions. Existing law creates the state board within the California Environmental Protection Agency with prescribed membership.

This bill would abolish the State Air Resources Board and transfer its authority, duties, powers, purposes, responsibilities, and jurisdiction to the California Environmental Protection Agency.

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

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

1 SECTION 1. Section 11564 of the Government Code is  
2 amended to read:  
3 11564. (a) Effective January 1, 1988, an annual salary of  
4 twenty-five thousand one hundred eighteen dollars (\$25,118) shall

1 be paid to each member of the ~~State Air Resources Board and the~~  
2 Central Valley Flood Protection Board, if each member devotes a  
3 minimum of 60 hours per month to state board work. The salary  
4 shall be reduced proportionately if less than 60 hours per month  
5 is devoted to state board work.

6 (b) The annual compensation provided by this section shall be  
7 increased in any fiscal year in which a general salary increase is  
8 provided for state employees. The amount of the increase provided  
9 by this section shall be comparable to, but shall not exceed, the  
10 percentage of the general salary increases provided for state  
11 employees during that fiscal year.

12 (c) Notwithstanding subdivision (b), any salary increase is  
13 subject to Section 11565.5.

14 SEC. 2. Section 38505 of the Health and Safety Code is  
15 amended to read:

16 38505. For the purposes of this division, the following terms  
17 have the following meanings:

18 (a) "Allowance" means an authorization to emit, during a  
19 specified year, up to one ton of carbon dioxide equivalent.

20 (b) "Alternative compliance mechanism" means an action  
21 undertaken by a greenhouse gas emission source that achieves the  
22 equivalent reduction of greenhouse gas emissions over the same  
23 time period as a direct emission reduction, and that is approved  
24 by the state board. "Alternative compliance mechanism" includes,  
25 but is not limited to, a flexible compliance schedule, alternative  
26 control technology, a process change, or a product substitution.

27 (c) "Carbon dioxide equivalent" means the amount of carbon  
28 dioxide by weight that would produce the same global warming  
29 impact as a given weight of another greenhouse gas, based on the  
30 best available science, including from the Intergovernmental Panel  
31 on Climate Change.

32 (d) "Cost-effective" or "cost-effectiveness" means the cost per  
33 unit of reduced emissions of greenhouse gases adjusted for its  
34 global warming potential.

35 (e) "Direct emission reduction" means a greenhouse gas  
36 emission reduction action made by a greenhouse gas emission  
37 source at that source.

38 (f) "Emissions reduction measure" means programs, measures,  
39 standards, and alternative compliance mechanisms authorized

1 pursuant to this division, applicable to sources or categories of  
2 sources, that are designed to reduce emissions of greenhouse gases.

3 (g) “Greenhouse gas” or “greenhouse gases” includes all of the  
4 following gases:

5 (1) Carbon dioxide.

6 (2) Methane.

7 (3) Nitrous oxide.

8 (4) Hydrofluorocarbons.

9 (5) Perfluorocarbons.

10 (6) Sulfur hexafluoride.

11 (7) Nitrogen trifluoride.

12 (h) “Greenhouse gas emissions limit” means an authorization,  
13 during a specified year, to emit up to a level of greenhouse gases  
14 specified by the state board, expressed in tons of carbon dioxide  
15 equivalents.

16 (i) “Greenhouse gas emission source” or “source” means any  
17 source, or category of sources, of greenhouse gas emissions whose  
18 emissions are at a level of significance, as determined by the state  
19 board, that its participation in the program established under this  
20 division will enable the state board to effectively reduce greenhouse  
21 gas emissions and monitor compliance with the statewide  
22 greenhouse gas emissions limit.

23 (j) “Leakage” means a reduction in emissions of greenhouse  
24 gases within the state that is offset by an increase in emissions of  
25 greenhouse gases outside the state.

26 (k) “Market-based compliance mechanism” means either of the  
27 following:

28 (1) A system of market-based declining annual aggregate  
29 emissions limitations for sources or categories of sources that emit  
30 greenhouse gases.

31 (2) Greenhouse gas emissions exchanges, banking, credits, and  
32 other transactions, governed by rules and protocols established by  
33 the state board, that result in the same greenhouse gas emission  
34 reduction, over the same time period, as direct compliance with a  
35 greenhouse gas emission limit or emission reduction measure  
36 adopted by the state board pursuant to this division.

37 (l) “State board” means the ~~State Air Resources Board~~  
38 *California Environmental Protection Agency*.

39 (m) “Statewide greenhouse gas emissions” means the total  
40 annual emissions of greenhouse gases in the state, including all

1 emissions of greenhouse gases from the generation of electricity  
2 delivered to and consumed in California, accounting for  
3 transmission and distribution line losses, whether the electricity  
4 is generated in state or imported. Statewide emissions shall be  
5 expressed in tons of carbon dioxide equivalents.

6 (n) “Statewide greenhouse gas emissions limit” or “statewide  
7 emissions limit” means the maximum allowable level of statewide  
8 greenhouse gas emissions in 2020, as determined by the state board  
9 pursuant to Part 3 (commencing with Section 38550).

10 SEC. 3. Section 39053 of the Health and Safety Code is  
11 amended to read:

12 39053. “State Board” means the ~~State Air Resources Board~~  
13 *California Environmental Protection Agency*.

14 SEC. 4. Chapter 2 (commencing with Section 39510) of Part  
15 2 of Division 26 of the Health and Safety Code is repealed.

16 SEC. 5. Chapter 2 (commencing with Section 39510) is added  
17 to Part 2 of Division 26 of the Health and Safety Code, to read:

18

19 CHAPTER 2. TRANSFER OF DUTIES OF STATE AIR RESOURCES  
20 BOARD

21

22 39510. The California Environmental Protection Agency  
23 succeeds to, and is vested with, all of the authority, duties, powers,  
24 purposes, responsibilities, and jurisdiction of the former State Air  
25 Resources Board.

**ASSEMBLY BILL**

**No. 1332**

---

---

**Introduced by Assembly Member Donnelly**

February 18, 2011

---

---

An act to amend Section 11564 of the Government Code, and to amend Sections 38505 and 39053 of, and to repeal and add Chapter 2 (commencing with Section 39510) of Part 2 of Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1332, as introduced, Donnelly. State Air Resources Board: abolishment.

Existing law establishes the State Air Resources Board as the state agency with primary jurisdiction over the regulation of air pollution, including greenhouse gas emissions. Existing law creates the state board within the California Environmental Protection Agency with prescribed membership.

This bill would abolish the State Air Resources Board and transfer its authority, duties, powers, purposes, responsibilities, and jurisdiction to the California Environmental Protection Agency.

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

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

1 SECTION 1. Section 11564 of the Government Code is  
2 amended to read:  
3 11564. (a) Effective January 1, 1988, an annual salary of  
4 twenty-five thousand one hundred eighteen dollars (\$25,118) shall

1 be paid to each member of the ~~State Air Resources Board and the~~  
2 Central Valley Flood Protection Board, if each member devotes a  
3 minimum of 60 hours per month to state board work. The salary  
4 shall be reduced proportionately if less than 60 hours per month  
5 is devoted to state board work.

6 (b) The annual compensation provided by this section shall be  
7 increased in any fiscal year in which a general salary increase is  
8 provided for state employees. The amount of the increase provided  
9 by this section shall be comparable to, but shall not exceed, the  
10 percentage of the general salary increases provided for state  
11 employees during that fiscal year.

12 (c) Notwithstanding subdivision (b), any salary increase is  
13 subject to Section 11565.5.

14 SEC. 2. Section 38505 of the Health and Safety Code is  
15 amended to read:

16 38505. For the purposes of this division, the following terms  
17 have the following meanings:

18 (a) "Allowance" means an authorization to emit, during a  
19 specified year, up to one ton of carbon dioxide equivalent.

20 (b) "Alternative compliance mechanism" means an action  
21 undertaken by a greenhouse gas emission source that achieves the  
22 equivalent reduction of greenhouse gas emissions over the same  
23 time period as a direct emission reduction, and that is approved  
24 by the state board. "Alternative compliance mechanism" includes,  
25 but is not limited to, a flexible compliance schedule, alternative  
26 control technology, a process change, or a product substitution.

27 (c) "Carbon dioxide equivalent" means the amount of carbon  
28 dioxide by weight that would produce the same global warming  
29 impact as a given weight of another greenhouse gas, based on the  
30 best available science, including from the Intergovernmental Panel  
31 on Climate Change.

32 (d) "Cost-effective" or "cost-effectiveness" means the cost per  
33 unit of reduced emissions of greenhouse gases adjusted for its  
34 global warming potential.

35 (e) "Direct emission reduction" means a greenhouse gas  
36 emission reduction action made by a greenhouse gas emission  
37 source at that source.

38 (f) "Emissions reduction measure" means programs, measures,  
39 standards, and alternative compliance mechanisms authorized

1 pursuant to this division, applicable to sources or categories of  
2 sources, that are designed to reduce emissions of greenhouse gases.

3 (g) “Greenhouse gas” or “greenhouse gases” includes all of the  
4 following gases:

5 (1) Carbon dioxide.

6 (2) Methane.

7 (3) Nitrous oxide.

8 (4) Hydrofluorocarbons.

9 (5) Perfluorocarbons.

10 (6) Sulfur hexafluoride.

11 (7) Nitrogen trifluoride.

12 (h) “Greenhouse gas emissions limit” means an authorization,  
13 during a specified year, to emit up to a level of greenhouse gases  
14 specified by the state board, expressed in tons of carbon dioxide  
15 equivalents.

16 (i) “Greenhouse gas emission source” or “source” means any  
17 source, or category of sources, of greenhouse gas emissions whose  
18 emissions are at a level of significance, as determined by the state  
19 board, that its participation in the program established under this  
20 division will enable the state board to effectively reduce greenhouse  
21 gas emissions and monitor compliance with the statewide  
22 greenhouse gas emissions limit.

23 (j) “Leakage” means a reduction in emissions of greenhouse  
24 gases within the state that is offset by an increase in emissions of  
25 greenhouse gases outside the state.

26 (k) “Market-based compliance mechanism” means either of the  
27 following:

28 (1) A system of market-based declining annual aggregate  
29 emissions limitations for sources or categories of sources that emit  
30 greenhouse gases.

31 (2) Greenhouse gas emissions exchanges, banking, credits, and  
32 other transactions, governed by rules and protocols established by  
33 the state board, that result in the same greenhouse gas emission  
34 reduction, over the same time period, as direct compliance with a  
35 greenhouse gas emission limit or emission reduction measure  
36 adopted by the state board pursuant to this division.

37 (l) “State board” means the ~~State Air Resources Board~~  
38 *California Environmental Protection Agency*.

39 (m) “Statewide greenhouse gas emissions” means the total  
40 annual emissions of greenhouse gases in the state, including all

1 emissions of greenhouse gases from the generation of electricity  
2 delivered to and consumed in California, accounting for  
3 transmission and distribution line losses, whether the electricity  
4 is generated in state or imported. Statewide emissions shall be  
5 expressed in tons of carbon dioxide equivalents.

6 (n) “Statewide greenhouse gas emissions limit” or “statewide  
7 emissions limit” means the maximum allowable level of statewide  
8 greenhouse gas emissions in 2020, as determined by the state board  
9 pursuant to Part 3 (commencing with Section 38550).

10 SEC. 3. Section 39053 of the Health and Safety Code is  
11 amended to read:

12 39053. “State Board” means the ~~State Air Resources Board~~  
13 *California Environmental Protection Agency*.

14 SEC. 4. Chapter 2 (commencing with Section 39510) of Part  
15 2 of Division 26 of the Health and Safety Code is repealed.

16 SEC. 5. Chapter 2 (commencing with Section 39510) is added  
17 to Part 2 of Division 26 of the Health and Safety Code, to read:

18

19 CHAPTER 2. TRANSFER OF DUTIES OF STATE AIR RESOURCES  
20 BOARD

21

22 39510. The California Environmental Protection Agency  
23 succeeds to, and is vested with, all of the authority, duties, powers,  
24 purposes, responsibilities, and jurisdiction of the former State Air  
25 Resources Board.

**ASSEMBLY BILL**

**No. 7**

---

---

**Introduced by Assembly Member Logue**

December 6, 2010

---

---

An act to amend Section 13332.18 of, and to add Section 13332.185 to, the Government Code, relating to the General Fund.

LEGISLATIVE COUNSEL'S DIGEST

AB 7, as introduced, Logue. General Fund: fines.

(1) Under existing law, with specified exceptions, revenues derived from the assessment of fines and penalties by any state agency may not be expended unless the Legislature specifically provides authority for the expenditure of these funds in the annual Budget Act or other legislation. Existing law directs that various fines and penalties be deposited in various special funds related to the agency that collected the revenue. Existing law creates the General Fund to consist of money received into the State Treasury that is not required by law to be credited to any other fund.

This bill would require, notwithstanding any other law, that any fine or penalty imposed by the Department of Pesticide Regulation, the Department of Toxic Substances Control, the State Air Resources Board, or the State Water Resources Control Board for a violation of a regulation adopted by that state agency be deposited into the General Fund. The bill would also make a statement of findings.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 6, 2010, pursuant to the California Constitution.

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

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

1 SECTION 1. (a) The agencies, boards, departments, and offices  
2 of the state generally strive to promulgate regulations that benefit  
3 the people of the state.

4 (b) The people of the state expect that their government will  
5 enact laws and promulgate regulations to protect the health and  
6 welfare of the people of this state and that these laws and  
7 regulations will tend to maximize benefits to society while  
8 minimizing costs.

9 (c) Administrative and regulatory actions can have significant  
10 and far-reaching consequences for individuals, nonprofit  
11 organizations, and businesses throughout the state.

12 (d) When the law allows the same agency responsible for  
13 seeking out violations and imposing fines to directly benefit by  
14 placing fine moneys in its operating budget, it provides an incentive  
15 for the agency to act in a manner that raises a question as to the  
16 motivation for enforcement of regulations.

17 (e) It is the exclusive province of the Legislature to determine  
18 the budget of state agencies, and, especially in times of economic  
19 despair, an agency should not be permitted to fill a budget shortfall  
20 by increasing collection of fines through regulatory activity.

21 (f) The primary object of enforcement of regulations  
22 promulgated by agencies is the protection of the people of this  
23 state, and any fines collected from enforcement of these regulations  
24 should revert to the General Fund so the Legislature may determine  
25 how those moneys will best serve the people of this state.

26 SEC. 2. Section 13332.18 of the Government Code is amended  
27 to read:

28 13332.18. (a) Notwithstanding any other provision of law,  
29 and except as specified in subdivision (b) *and in Section 13332.185*,  
30 revenues derived from the assessment of fines and penalties by  
31 any state agency shall not be expended unless the Legislature  
32 specifically provides authority for the expenditure of these funds

1 in the annual Budget Act or other legislation. A fine or penalty is  
2 a charge imposed by an agency or department for wrongdoing, in  
3 excess of the cost of investigating, processing, or prosecuting the  
4 conduct for which the charge is assessed, or the cost of collecting  
5 it. A charge reasonably related to a service provided by a  
6 department or agency is not a fine or penalty for purposes of this  
7 section.

8 (b) This section shall not apply to the following:

9 (1) Any governmental cost fund if the use of revenues subject  
10 to this section that are deposited in that fund for General Fund  
11 purposes is prohibited by the California Constitution or the United  
12 States Constitution.

13 (2) Late charges collected by state agencies.

14 (3) Funds collected by a state agency that are required to be  
15 maintained by that agency for purposes of administration of a  
16 federal program.

17 (4) A fund established for restitution to victims of the conduct  
18 for which the fine or penalty was imposed or for repairing damage  
19 to the environment caused by the conduct for which the fine or  
20 penalty was imposed.

21 (5) The following funds, though the omission of any other fund  
22 from the list contained in this paragraph shall not be grounds for  
23 inferring the applicability of this section:

24 (A) The Fish and Game Preservation Fund.

25 (B) The Restitution Fund.

26 (C) The Peace Officers' Training Fund.

27 (D) The Driver Training Penalty Assessment Fund.

28 (E) The Corrections Training Fund.

29 (F) The Local Public Prosecutors and Public Defenders Training  
30 Fund.

31 (G) The Victim-Witness Injury Fund.

32 (H) The Traumatic Brain Injury Fund.

33 (I) The Industrial Relations Construction Industry Enforcement  
34 Fund.

35 (J) The Workplace Health and Safety Revolving Fund.

36 (K) The Oil Spill Response Trust Fund.

37 (L) The Oil Spill Prevention and Administration Fund.

38 (M) The Environmental Enhancement Fund.

39 (N) The Recovery Account of the Real Estate Fund.

1 (O) The Motor Vehicle Account in the State Transportation  
2 Fund.

3 (P) The State Highway Account in the State Transportation  
4 Fund.

5 (Q) The Motor Vehicle License Fee Account in the  
6 Transportation Tax Fund.

7 (R) Funds for programs established pursuant to the Food and  
8 Agricultural Code that can be terminated through an industry  
9 referendum vote.

10 (c) For the purposes of this section, revenues derived from the  
11 assessment of fines and penalties includes interest accrued from  
12 the assessment of the fines and penalties.

13 SEC. 3. Section 13332.185 is added to the Government Code,  
14 to read:

15 13332.185. (a) The applicability of this section is limited to  
16 the Department of Pesticide Regulation, the Department of Toxic  
17 Substances Control, the State Air Resources Board, and the State  
18 Water Resources Control Board.

19 (b) Notwithstanding Section 13332.18 or any other law, a fine  
20 or penalty imposed by a state agency included in subdivision (a)  
21 for a violation of a regulation adopted by that state agency shall  
22 be deposited into the General Fund.

23 SEC. 4. This act addresses the fiscal emergency declared by  
24 the Governor by proclamation on December 6, 2010, pursuant to  
25 subdivision (f) of Section 10 of Article IV of the California  
26 Constitution.

O

**Introduced by Senator Pavley**

February 3, 2011

---

---

An act to add Sections 40453 and 40542 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 170, as introduced, Pavley. South Coast Air Quality Management District: adverse effects of air pollution: intellectual property.

Existing law creates the South Coast Air Quality Management District with jurisdiction over air quality within the South Coast Air Basin, including in the Counties of Los Angeles, Orange, Riverside, and San Bernardino.

This bill would authorize the south coast district to sponsor, coordinate, and promote projects that will lead to the prevention, mitigation, or cure of the adverse effects of air pollution, including the adverse health effects of air pollution. The bill would authorize the south coast district to determine what share, if any, of the intellectual property, or benefits resulting from intellectual property, developed from the use of district funds, including funds discharged as grants, will accrue to the south coast district.

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

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

- 1 SECTION 1. Section 40453 is added to the Health and Safety
- 2 Code, to read:
- 3 40453. The south coast district may sponsor, coordinate, and
- 4 promote projects that will lead to the prevention, mitigation, or

1 cure of the adverse effects of air pollution, including the adverse  
2 health effects of air pollution.

3 SEC. 2. Section 40542 is added to the Health and Safety Code,  
4 to read:

5 40542. The south coast district may determine what share, if  
6 any, of the intellectual property, or benefits resulting from  
7 intellectual property, developed from the use of district funds,  
8 including funds discharged as grants, will accrue to the south coast  
9 district. The south coast district may negotiate revenue sharing  
10 agreements with recipients of south coast district funds, including  
11 the collection of royalties. Proceeds obtained by the district from  
12 these revenue sharing agreements shall be used for purposes  
13 authorized by this chapter.

**Introduced by Senator Corbett**February 8, 2011

---

---

An act to add Section 1353.9 to the Civil Code, relating to common interest developments.

## LEGISLATIVE COUNSEL'S DIGEST

SB 209, as introduced, Corbett. Common interest developments: electric vehicle charging stations.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives.

This bill would provide that any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, or any provision of the governing documents of a common interest development, that effectively prohibits or restricts the installation or use of an electrical vehicle charging station is void and unenforceable. The bill would authorize an association, as defined, to impose reasonable restrictions on those stations, as specified, and would impose requirements with respect to an association's approval process for those stations. An association that violates the bill's provisions would be liable for damages and a civil penalty, as specified.

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

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

1 SECTION 1. Section 1353.9 is added to the Civil Code, to  
2 read:

3 1353.9. (a) Any covenant, restriction, or condition contained  
4 in any deed, contract, security instrument, or other instrument  
5 affecting the transfer or sale of any interest in a common interest  
6 development, and any provision of a governing document, as  
7 defined in subdivision (j) of Section 1351, that effectively prohibits  
8 or restricts the installation or use of an electric vehicle charging  
9 station is void and unenforceable.

10 (b) (1) This section does not apply to provisions that impose  
11 reasonable restrictions on electric vehicle charging stations.  
12 However, it is the policy of the state to promote, encourage, and  
13 remove obstacles to the use of electric vehicle charging stations.

14 (2) For purposes of this section, “reasonable restrictions” are  
15 restrictions that do not significantly increase the cost of the station  
16 or significantly decrease its efficiency or specified performance.

17 (c) An electric vehicle charging station shall meet applicable  
18 health and safety standards and requirements imposed by state and  
19 local permitting authorities.

20 (d) For purposes of this section, “electric vehicle charging  
21 station” means a station that is designed in compliance with Article  
22 625 of the National Electrical Code and delivers electricity from  
23 a source outside an electric vehicle into one or more electric  
24 vehicles. An electric vehicle charging station may include several  
25 charge points simultaneously connecting several electric vehicles  
26 to the station.

27 (e) If approval is required for the installation or use of an electric  
28 vehicle charging station, the application for approval shall be  
29 processed and approved by the association in the same manner as  
30 an application for approval of an architectural modification to the  
31 property, and shall not be willfully avoided or delayed. The  
32 approval or denial of an application shall be in writing. If an  
33 application is not denied in writing within 60 days from the date  
34 of receipt of the application, the application shall be deemed  
35 approved, unless that delay is the result of a reasonable request  
36 for additional information.

37 (f) An association that willfully violates this section shall be  
38 liable to the applicant or other party for actual damages, and shall

- 1 pay a civil penalty to the applicant or other party in an amount not
- 2 to exceed one thousand dollars (\$1,000).
- 3 (g) In any action to enforce compliance with this section, the
- 4 prevailing party shall be awarded reasonable attorney's fees.

O

**Introduced by Senator Emmerson**  
(Principal coauthor: Assembly Member Huffman)

February 17, 2011

---

---

An act to add Section 65081 to the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 582, as introduced, Emmerson. Commute benefit policies.

Existing law requires transportation planning agencies to undertake various transportation planning activities, including preparation of a regional transportation plan. Existing law requires transportation planning agencies that are designated under federal law as metropolitan planning organizations to include a sustainable communities strategy as part of the regional transportation plan for their region. Existing law creates air quality management districts with various responsibilities relative to reduction of air pollution.

This bill, beginning on January 1, 2013, would authorize a metropolitan planning organization, in partnership with the local air quality management district, to adopt a commute benefit ordinance that requires covered employers operating within the common jurisdiction of the organization and district with 20 or more covered employees to offer those employees certain commute benefits. The bill would require that the ordinance specify certain matters, including any consequences for noncompliance.

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

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

1 SECTION 1. Section 65081 is added to the Government Code,  
2 to read:

3 65081. (a) It is the intent of the Legislature to encourage  
4 metropolitan planning organizations and local air quality  
5 management districts to work with local employers to adopt  
6 policies that encourage commuting by means other than the  
7 single-occupancy vehicle.

8 (b) On or after January 1, 2013, a metropolitan planning  
9 organization, in partnership with the local air quality management  
10 district, may adopt a commute benefit ordinance that requires  
11 covered employers with 20 or more covered employees operating  
12 within the common jurisdiction of the organization and district to  
13 offer all covered employees one of the following choices:

14 (1) A pretax option: a program, consistent with Section 132(f)  
15 of the Internal Revenue Code, allowing covered employees to elect  
16 to exclude from taxable wages employee commuting costs incurred  
17 for transit passes or vanpool charges, or bicycle commuting, up to  
18 the maximum amount allowed by federal tax law.

19 (2) Employer-paid benefit: a program whereby the covered  
20 employer covers the monthly cost of commuting via a public transit  
21 system requested by each covered employee or reimburses each  
22 covered employee's qualified vanpool charges.

23 (3) Employer-provided transit: transportation furnished by the  
24 covered employer at no cost to the covered employee in a vanpool  
25 or bus, or similar multipassenger vehicle operated by or for the  
26 employer.

27 The commute benefit ordinance shall provide covered employers  
28 with at least six months to comply after the ordinance is adopted.

29 (c) A commute benefit ordinance adopted pursuant to this  
30 section shall specify all of the following: (1) how the implementing  
31 agencies will inform covered employers about the ordinance, (2)  
32 how compliance with the ordinance will be demonstrated, and (3)  
33 any consequences for noncompliance.

34 (d) As used in this section, the following terms have the  
35 following meanings:

36 (1) "Covered employer" means any employer for which an  
37 average of 20 or more employees per week perform work for  
38 compensation within the jurisdiction where the ordinance adopted

1 pursuant to this section operates. In determining the number of  
2 employees performing work for an employer during a given week,  
3 only employees performing work on a full-time basis shall be  
4 counted.

5 (2) “Covered employee” means an employee who performed  
6 at least 10 hours of work per week within the previous calendar  
7 month within the jurisdiction where the ordinance adopted pursuant  
8 to this section operates.

**Introduced by Senator Dutton  
(Coauthors: Senators Cannella, Correa, Huff, Rubio, and  
Strickland)**

February 18, 2011

---

---

An act to amend Sections 39619.7, 43024, and 43212 of, and to add Sections 43103 and 43103.5 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 724, as introduced, Dutton. State Air Resources Board: penalties: mobile source certification.

(1) Existing law grants to the State Air Resources Board the primary authority for the control of air pollution from vehicular sources. The state board tests and certifies new motor vehicle models for compliance with air pollution emissions standards developed by the state board.

This bill would require an application for certification of a new motor vehicle or engine, including off-road equipment and engines and aftermarket parts, to be approved or disapproved pursuant to specified requirements. The bill would authorize the executive officer of the state board to approve certification of a new motor vehicle or engine, including off-road equipment and engines and aftermarket parts, for any model year that has been certified by the federal Environmental Protection Agency without additional testing, if the state emissions standards for certification of that vehicle, equipment, engine, or part are no more stringent than the federal standards on which the federal Environmental Protection Agency certification was based.

The bill would require the state board to create a separate, short form certification application template for a 2013 model year and later carryover vehicle, equipment, or engine, as defined. The bill would

require this application form to contain a section for the applicant to certify, under penalty of perjury, that any change in an emissions-related component part has not resulted in an increase in emissions from the prior certified model year. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.

(2) Existing law requires a written communication from the state board alleging that an administrative or civil penalty will be, or could be, imposed either by the state board or another party, including the Attorney General, for a violation of air pollution law, to contain specified information.

This bill would require this information to include specified information relating to quantifying excess emissions. The bill would require the state board to consider in assessing a penalty whether there were excess emissions above an applicable standard and, where practicable, to quantify these excess emissions.

(3) Existing law subjects any manufacturer or distributor who does not comply with the emission standards or the test procedures adopted by the state board to a civil penalty of \$50 for each vehicle that does not comply with the standards or procedures.

This bill would prohibit the imposition of any penalty in addition to this penalty for a violation that does not cause excess emissions above an applicable standard, including violations involving a carryover vehicle, equipment, or engine as defined.

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

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

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

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

- 1 SECTION 1. Section 39619.7 of the Health and Safety Code
- 2 is amended to read:
- 3 39619.7. (a) A written communication from the state board
- 4 alleging that an administrative or civil penalty will be, or could
- 5 be, imposed either by the state board or another party, including
- 6 the Attorney General, for a violation of air pollution law, shall
- 7 contain a clear explanation of all of the following:

1 (1) The manner in which the administrative or civil penalty  
2 amount was determined, including the aggravating and mitigating  
3 factors the state board considered in arriving at the amount, and,  
4 where applicable, the per unit or per vehicle basis for the penalty.

5 (2) The provision of law or regulations under which the alleged  
6 violator is being assessed the administrative or civil penalty,  
7 including the reason that provision is most appropriate for that  
8 violation.

9 (3) (A) Whether the administrative or civil penalty is being  
10 assessed under a provision of law that prohibits the emission of  
11 pollution at a specified level, and if so, a quantification of the  
12 specific amount of pollution emitted in excess of that level, where  
13 practicable. This quantification may be based on estimates or  
14 emission factors. *The state board shall provide an opportunity to*  
15 *the regulated person or entity to submit information regarding the*  
16 *amount of pollution emitted in excess of an applicable standard*  
17 *or the lack of any emissions above an applicable standard.*

18 (B) *Whether quantifying excess emissions was practicable,*  
19 *whether a regulated person or entity submitted information*  
20 *quantifying excess emissions, and the manner in which the penalty*  
21 *was assessed to account for the magnitude of excess emissions or*  
22 *the lack of excess emissions, as required by subdivision (c) of*  
23 *Section 43024.*

24 (b) The information described in subdivision (a) and all final  
25 mutual settlement agreements reached between the state board and  
26 a person alleged to have violated air pollution laws shall be made  
27 available to the public.

28 SEC. 2. Section 43024 of the Health and Safety Code is  
29 amended to read:

30 43024. (a) No later than March 1, 2011, the state board shall  
31 publish a penalty policy for civil or administrative penalties  
32 prescribed under Chapter 1 (commencing with Section 43000) to  
33 Chapter 4 (commencing with Section 43800), inclusive, and  
34 Chapter 6 (commencing with Section 44200).

35 (b) The policy shall take into consideration all relevant  
36 circumstances, including, but not limited to, all of the following:

37 (1) The extent of harm to public health, safety, and welfare  
38 caused by the violation.

39 (2) The nature and persistence of the violation, including the  
40 magnitude of the excess emissions.

1 (3) The compliance history of the defendant, including the  
2 frequency of past violations.

3 (4) The preventive efforts taken by the defendant, including the  
4 record of maintenance and any program to ensure compliance.

5 (5) The innovative nature and the magnitude of the effort  
6 required to comply, and the accuracy, reproducibility, and  
7 repeatability of the available test methods.

8 (6) The efforts of the defendant to attain, or provide for,  
9 compliance.

10 (7) The cooperation of the defendant during the course of the  
11 investigation and any action taken by the defendant, including the  
12 nature, extent, and time of response of any action taken to mitigate  
13 the violation.

14 (8) The financial burden to the defendant.

15 (c) *The state board shall consider in assessing a penalty whether*  
16 *there were excess emissions above an applicable standard and,*  
17 *where practicable, the state board shall quantify these excess*  
18 *emissions.*

19 SEC. 3. Section 43103 is added to the Health and Safety Code,  
20 to read:

21 43103. (a) (1) Within 30 days after receipt of an application  
22 for certification of a new motor vehicle or engine, including  
23 off-road equipment and engines and aftermarket parts, the executive  
24 officer of the state board shall inform the applicant, in writing,  
25 either: (A) that the application is complete and accepted for filing,  
26 or (B) that the application is deficient, identifying the specific  
27 information required to make the application complete.

28 (2) Within 15 days after receipt of additional information  
29 provided in response to a determination by the executive officer  
30 of the state board that an application for certification of a new  
31 motor vehicle or engine, including off-road equipment and engines  
32 and aftermarket parts, is deficient, the executive officer shall inform  
33 the applicant, in writing, either: (A) that the new information is  
34 sufficient to make the application complete and that the application  
35 is accepted for filing, or (B) that the application is deficient,  
36 identifying the specific information required to make the  
37 application complete.

38 (3) Within 90 days after an application for certification of a new  
39 motor vehicle or engine, including off-road equipment and engines  
40 and aftermarket parts, is accepted for filing, the executive officer

1 of the state board shall act to approve or to disapprove the  
2 application.

3 (b) (1) An applicant may inform the executive officer or the  
4 ombudsman of the state board, in writing, if the requirements of  
5 subdivision (a) have not been met.

6 (2) The executive officer and the ombudsman shall ensure that  
7 action to approve or disapprove the application takes place within  
8 30 days after receipt of the notice described in paragraph (1).

9 (c) (1) If the application for certification of a new motor vehicle  
10 or engine, including off-road equipment and engines and  
11 aftermarket parts, is for a carryover vehicle, equipment, or engine,  
12 the executive officer shall approve or disapprove the application  
13 within 30 days after the application is accepted for filing.

14 (2) If an application described in paragraph (1) is not approved  
15 or disapproved within 210 days after the application is accepted  
16 for filing, the application is deemed to have been approved by the  
17 executive officer.

18 (3) For a carryover vehicle, equipment, or engine that has been  
19 approved pursuant to this subdivision, the entire model year is  
20 deemed to have been certified with the approval being effective  
21 on the initial date when that model year began production.

22 (4) This subdivision applies to an application made on and after  
23 January 1, 2012, and to an application that was filed prior to  
24 January 1, 2012, and which has not yet been approved or  
25 disapproved.

26 (d) The state board shall create a separate, short form  
27 certification application template for a 2013 model year and later  
28 carryover vehicle, equipment, or engine that shall include all of  
29 the following:

30 (1) A conspicuously located section for the applicant to indicate  
31 that the application is being submitted for a carryover vehicle,  
32 equipment, or engine.

33 (2) A conspicuously located section for the applicant to certify,  
34 under penalty of perjury, that any change in an emissions-related  
35 component part has not resulted in an increase in emissions from  
36 the prior certified model year.

37 (3) A conspicuously located section for the applicant to indicate  
38 and provide information for any nonmaterial or minor changes  
39 from the prior certified model year, including, but not limited to,  
40 changes in emissions-related component parts that do not adversely

1 affect emissions compliance or performance or otherwise result  
2 in increased emissions, or revised labels or warranty statements.

3 (e) As used in this section, “carryover vehicle, equipment, or  
4 engine” means a vehicle, equipment, or engine certified to the  
5 same emission regulations and standards as the certified prior  
6 model year, if there has been no change to the subsequent model  
7 year product that would increase emissions or adversely affect  
8 emissions compliance or performance.

9 SEC. 4. Section 43103.5 is added to the Health and Safety  
10 Code, to read:

11 43103.5. The executive officer of the state board may approve  
12 certification of a new motor vehicle or engine, including off-road  
13 equipment and engines and aftermarket parts, for any model year  
14 that has been certified by the federal Environmental Protection  
15 Agency, without requiring the applicant to submit to additional  
16 testing prior to certification, if the state emissions standards for  
17 certification of that vehicle, equipment, or engine are no more  
18 stringent than the federal standards on which the federal  
19 Environmental Protection Agency certification was based.

20 SEC. 5. Section 43212 of the Health and Safety Code is  
21 amended to read:

22 43212. (a) Any manufacturer or distributor who does not  
23 comply with the emission standards or the test procedures adopted  
24 by the state board shall be subject to a civil penalty of fifty dollars  
25 (\$50) for each vehicle ~~which~~ *that* does not comply with the  
26 standards or procedures and ~~which~~ *that* is first sold in this state.  
27 The payment of ~~such~~ *these* penalties to the state board shall be a  
28 condition to the further sale by ~~such~~ *the* manufacturer or distributor  
29 of motor vehicles in this state.

30 (b) *Notwithstanding Section 43154 or 43211, a penalty in*  
31 *addition to the penalty provided for in this section shall not be*  
32 *imposed for a violation of the emission standards, certification*  
33 *requirements, or test procedures described in this chapter, if that*  
34 *violation does not cause excess emissions above an applicable*  
35 *standard, including violations involving a “carryover vehicle,*  
36 *equipment, or engine” as defined in Section 43103.*

37 ~~Any~~

38 (c) Any penalty recovered pursuant to this section shall be  
39 deposited into the Air Pollution Control Fund.

1 SEC. 6. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

O

**Introduced by Senator Lowenthal**February 18, 2011

---

---

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 739, as introduced, Lowenthal. Ports: congestion relief: air pollution mitigation.

(1) Existing law regulates the operation of ports and harbors. Existing law provides for the formation and organization of port districts.

This bill would require the Ports of Long Beach, Los Angeles, and Oakland, beginning January 1, 2012, to assess their infrastructure and air quality improvement needs, including, but not limited to, projects that improve the efficiency of the movement of cargo, reduce congestion impacts associated with the movement of cargo, and reduce pollution associated with the movement of that cargo.

The bill would require each port to provide this assessment to the Legislature by July 1, 2012, and to include in the assessment the total costs of the infrastructure and air quality improvements, possible funding options for these projects, and estimated timelines for implementation.

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

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

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

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

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

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

4  
5 CHAPTER 1. PORT FACILITY CONSTRUCTION  
6

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

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

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

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

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

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

31 1750. (a) Beginning January 1, 2012, the Port of Long Beach  
32 shall assess its infrastructure and air quality improvement needs.

33 (b) The port, when assessing infrastructure projects, shall consult  
34 with the Southern California Association of Governments on  
35 projects that improve the efficiency of cargo movement and reduce

1 congestion impacts associated with the movement of cargo to and  
2 from the port through the southern California region. The port  
3 shall identify any project lists, such as the Goods Movement Action  
4 Plan, and provide any updated information for the projects on those  
5 lists. In the assessment, the port, at a minimum, shall identify the  
6 projects, funding source or possible funding source, and estimated  
7 timelines for completion.

8 (c) The port, when assessing air quality projects, shall consult  
9 with the South Coast Air Quality Management District on projects  
10 that reduce pollution associated with the movement of cargo to  
11 and from the port through the southern California region, including,  
12 but not limited to, projects that reduce pollution from trucks, cargo  
13 handling equipment, locomotives, and ships that move cargo within  
14 and to and from the port. The port shall identify any project lists,  
15 such as the Goods Movement Emission Reduction Plan or the San  
16 Pedro Bay Clean Air Action Plan, and provide updated information  
17 for the projects on those lists, where feasible. In the assessment,  
18 the port, at a minimum, shall identify the projects, funding source  
19 or possible funding source, and estimated timelines for  
20 implementation.

21 (d) On or before July 1, 2012, the port shall provide this  
22 assessment to the Legislature. The report shall include, but not be  
23 limited to, an assessment of total costs, including updating cost  
24 estimates from previous reports or project lists, for the  
25 infrastructure and air quality improvements, as well as identifying  
26 funding for projects that may have a source of funding and  
27 identifying possible funding options for projects without a funding  
28 source.

29 (1) The requirement for submitting a report imposed under this  
30 subdivision is inoperative on January 1, 2016, pursuant to Section  
31 10231.5 of the Government Code.

32 (2) A report to be submitted pursuant to this subdivision shall  
33 be submitted in compliance with Section 9795 of the Government  
34 Code.

35 1760. (a) Beginning January 1, 2012, the Port of Los Angeles  
36 shall assess its infrastructure and air quality improvement needs.

37 (b) The port, when assessing infrastructure projects, shall consult  
38 with the Southern California Association of Governments on  
39 projects that improve the efficiency of cargo movement and reduce  
40 congestion impacts associated with the movement of cargo to and

1 from the port through the southern California region. The port  
2 shall identify any project lists, such as the Goods Movement Action  
3 Plan, and provide any updated information for the projects on those  
4 lists. In the assessment, the port, at a minimum, shall identify the  
5 projects, funding source or possible funding source, and estimated  
6 timelines for completion.

7 (c) The port, when assessing air quality projects, shall consult  
8 with the South Coast Air Quality Management District on projects  
9 that reduce pollution associated with the movement of cargo to  
10 and from the port through the southern California region, including,  
11 but not limited to, projects that reduce pollution from trucks, cargo  
12 handling equipment, locomotives, and ships that move cargo within  
13 and to and from the port. The port shall identify any project lists,  
14 such as the Goods Movement Emission Reduction Plan or the San  
15 Pedro Bay Clean Air Action Plan, and provide updated information  
16 for the projects on those lists, where feasible. In the assessment,  
17 the port, at a minimum, shall identify the projects, funding source  
18 or possible funding source, and estimated timelines for  
19 implementation.

20 (d) On or before July 1, 2012, the port shall provide this  
21 assessment to the Legislature and shall include, but not be limited  
22 to, an assessment of total costs, including updating cost estimates  
23 from previous reports or project lists, for the infrastructure and air  
24 quality improvements, as well as identifying funding for projects  
25 that may have a source of funding and identifying possible funding  
26 options for projects without a funding source.

27 (1) The requirement for submitting a report imposed under this  
28 subdivision is inoperative on July 1, 2016, pursuant to Section  
29 10231.5 of the Government Code.

30 (2) A report to be submitted pursuant to this subdivision shall  
31 be submitted in compliance with Section 9795 of the Government  
32 Code.

33 1770. (a) Beginning January 1, 2012, the Port of Oakland shall  
34 assess its infrastructure and air quality improvement needs.

35 (b) The port, when assessing infrastructure projects, shall consult  
36 with the Metropolitan Transportation Commission on projects that  
37 improve the efficiency of cargo movement and reduce congestion  
38 impacts associated with the movement of cargo to and from the  
39 port through the northern California region. The port shall identify  
40 any project lists, such as the Goods Movement Action Plan, and

1 provide any updated information for the projects on those lists. In  
2 the assessment, the port, at a minimum, shall identify the projects,  
3 funding source or possible funding source, and estimated timelines  
4 for completion.

5 (c) The port, when assessing air quality projects, shall consult  
6 with the Bay Area Air Quality Management District on projects  
7 that reduce pollution associated with the movement of cargo to  
8 and from the port through the northern California region, including,  
9 but not limited to, projects that reduce pollution from trucks, cargo  
10 handling equipment, locomotives, and ships that move cargo within  
11 and to and from the port. The port shall identify any project lists,  
12 such as the Goods Movement Emission Reduction Plan, and  
13 provide updated information for the projects on those lists, where  
14 feasible. In the assessment, the port, at a minimum, shall identify  
15 the projects, funding source or possible funding source, and  
16 estimated timelines for implementation.

17 (d) On or before July 1, 2012, the port shall provide this  
18 assessment to the Legislature. The report shall include, but not be  
19 limited to, an assessment of total costs, including updating cost  
20 estimates from previous reports or project lists, for the  
21 infrastructure and air quality improvements, as well as identifying  
22 funding for projects that may have a source of funding and  
23 identifying possible funding options for projects without a funding  
24 source.

25 (1) The requirement for submitting a report imposed under this  
26 subdivision is inoperative on January 1, 2016, pursuant to Section  
27 10231.5 of the Government Code.

28 (2) A report to be submitted pursuant to this subdivision shall  
29 be submitted in compliance with Section 9795 of the Government  
30 Code.

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

33 ~~1760.~~

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

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

- 1 (1) Meet, hold public hearings, and compile data on issues that  
2 include, but need not be limited to, all of the following:
- 3 (A) The projected growth of each maritime port in the state.
- 4 (B) The costs and benefits of developing a coordinated state  
5 program to obtain federal funding for maritime port growth,  
6 security, and congestion relief.
- 7 (C) Impacts of maritime port growth on the state's transportation  
8 system.
- 9 (D) Air pollution caused by movement of goods through the  
10 state's maritime ports, and proposed methods of mitigating or  
11 alleviating that pollution.
- 12 (E) Maritime port security, including, but not limited to, training,  
13 readiness, certification of port personnel, exercise planning and  
14 conduct, and critical marine transportation system infrastructure  
15 protection.
- 16 (F) A statewide plan for continuing operation of maritime ports  
17 in cooperation with the United States Coast Guard, the federal  
18 Department of Homeland Security, the California Emergency  
19 Management Agency, and the California National Guard, consistent  
20 with the state's emergency management system and the national  
21 emergency management system, in the event of a major incident  
22 or disruption of port operations in one or more of the state's  
23 maritime ports.
- 24 (G) State marine transportation policy, legislation, and planning;  
25 regional infrastructure project funding; competitiveness;  
26 environmental impacts; port safety and security; and any other  
27 matters affecting the marine transportation system of the United  
28 States within, or affecting, the state.
- 29 (2) Identify all state agencies that are involved with the  
30 development, planning, or coordination of maritime ports in the  
31 state.
- 32 (3) Identify other states that have a statewide port master plan  
33 and determine whether that plan has assisted those states in  
34 improving their maritime ports.
- 35 (4) Compile all information obtained pursuant to paragraphs  
36 (1) to (3), inclusive, and submit its findings in a report to the  
37 Legislature not later than January 1, 2006. The report should  
38 include, but need not be limited to, recommendations on methods  
39 to better manage the growth of maritime ports and address the  
40 environmental impacts of moving goods through those ports.

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

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

O

# BAAQMD BILL DISCUSSION LIST

March 2011

| BILL NO. | AUTHOR       | SUBJECT   | POSITION<br>(Positions in italics<br>are staff<br>recommendations) |
|----------|--------------|---|--|
| AB 49    | Gatto        | Development project permit streamlining   |  |
| AB 128   | Logue        | Would allow ARB to, instead of imposing an air penalty, spend an equivalent amount on actions to comply with the violated regulation or on a supplemental project | <i>Oppose</i>  |
| AB 135   | Hagman       | Requires at least one ARB Board member to be a small-business owner   |  |
| AB 146   | Dickinson    | Adds a 12 <sup>th</sup> ARB Board member, from Sacramento air basin   |  |
| AB 296   | Skinner      | States legislative intent to regulate pavement reflectivity to reduce urban heat island   |  |
| AB 333   | Grove        | Exempts counties with unemployment over 7% from AB 32   | <i>Oppose</i>  |
| AB 343   | Atkins       | Requires redevelopment plans to identify how redevelopment projects will help regions attain their SB 375 (GHG emission reduction) goals                          | <i>Support</i>   |
| AB 382   | Nestande     | Requires all written district communications alleging violations to contain new detailed information, and imposes new requirements on inspectors                  | <i>Oppose</i>  |
| AB 462   | B. Lowenthal | Allows air districts to use AB 923 funds to replace older CNG tanks on schoolbuses  | <i>Support</i>   |
| AB 470   | Halderman    | Spot bill on regional air district board membership   |  |
| AB 475   | Butler       | Expands current off-street parking rules & opportunities for ZEV's to plug-in hybrids   |  |
| AB 523   | Valadao      | States Legislative intent to eliminate all subsidies for ethanol in CA  |  |
| AB 605   | Dickinson    | Requires OPR to develop project mitigation guidelines to reduce VMT, and for projects meeting the guidelines to omit transportation-related CEQA analysis         |  |
| AB 638   | Skinner      | Requires ARB and CEC to adopt measures to reduce 2020 convention fuel use to 2003 levels, and increase alternative fuel use by 26% by 2022                        |  |
| AB 650   | Blumenfield  | Creates Blue Ribbon Task Force on public transportation, whose charges include making funding recommendations to the Legislature                                  |  |
| AB 698   | Hagman       | Intent bill requiring ARB to report on 1992 Air Permit Streamlining Act   |  |

|         |                     |  |                           |
|---------|---------------------|--|---------------------------|
| AB 710  | Skinner             | Infill Development and Sustainable Community Act; eliminates excessive minimum parking requirements in infill and transit-oriented development areas   | <i>Support</i>            |
| AB 768  | Gatto               | Requires ARB to allow biomethane produced outside CA but used in CA to count towards Low Carbon Fuel Standard compliance   |                           |
| AB 796  | Blumenfield         | Establishes program to provide loan guarantees to CA clean-tech companies  |                           |
| AB 921  | Allen               | Agricultural Water Efficiency with Compost Use and GHG Reduction Act   |                           |
| AB 937  | Mendoza             | Allows ships to use exhaust filtration approved by ARB instead of cold ironing   |                           |
| AB 942  | Huber & B.Berryhill | Directs all penalties and fines collected by ARB into the General Fund, rather than air pollution remediation accounts   | <i>Oppose</i>             |
| AB 1054 | Skinner             | Expands PACE loan program to EV charging, energy efficiency, & renewables  |                           |
| AB 1064 | Furutani            | Makes changes to Prop 1B requirements on ARB for shorepower projects   |                           |
| AB 1095 | B.Berryhill         | Spot bill on air district hearing boards   |                           |
| AB 1150 | V.M.Perez           | Extends self-generation incentive program through 2018, and makes changes  |                           |
| AB 1160 | Hill                | States legislative intent to incentivize CA solar companies  |                           |
| AB 1169 | Halderman           | Spot bill on toxic air contaminants  |                           |
| AB 1285 | Fuentes             | States Legislative intent to create a community GHG reduction program, which would provide state oversight of local govt. and nonprofit GHG reduction investment, and facilitate the awarding of emission allowances to local entities |                           |
| AB 1332 | Donnelly            | Abolishes ARB and transfers duties and obligations to CalEPA   | <i>Oppose</i>             |
| AB 1339 | Gorell              | Would provide a 50% tax credit for purchase and installation of emergency standby generators at gas stations   |                           |
| ABx1 2  | Logue               | Would allow ARB to instead of imposing an air penalty spend an equivalent amount on actions to comply with the violated regulation or on a supplemental project  | <i>Oppose</i>             |
| ABx1 7  | Logue               | Directs all penalties and fines collected by ARB into the General Fund, rather than air pollution remediation accounts   | <i>Oppose</i>             |
| ABx1 14 | Skinner             | Expands PACE loan program to EV charging, energy efficiency, & renewables  |                           |
| SB 23   | Simitian et al.     | Requires 33% of electricity sales to be renewable by 2010 (up from 20% by 2010)  |                           |
| SB 170  | Pavley              | Allows South Coast Air District to receive intellectual property benefits or revenues from projects funded with grant funds controlled by the South Coast  | <i>Support if amended</i> |
| SB 209  | Corbett             | Prevents homeowners associations from blocking EV residential charging   | <i>Support</i>            |

|        |                   |  |                |
|--------|-------------------|--|----------------|
| SB 211 | Emmerson          | Limits the amount and severity of penalties for violations of ARB's tire inflation rule  |                |
| SB 237 | Wolk              | Requires an unspecified percentage of funds from state sale of GHG allowances to go to agriculture for GHG projects or grants or incentives                            |                |
| SB 358 | Cannella          | Excludes from gross income ARB-provided funds for air pollution reduction  |                |
| SB 519 | La Malfa          | Spot bill on vehicle emissions   |                |
| SB 533 | Wright and Correa | Requires ARB to post implementation schedule for AB 32 regulations in advance, as well as all forms, compliance tools or training                                      |                |
| SB 535 | De Leon           | Establishes the California Climate Change Community Benefits Fund  |                |
| SB 570 | Rubio             | Extends by two years existing San Joaquin Valley Air District program to replace high polluter vehicles with donated vehicles  |                |
| SB 582 | Emmerson          | Allows MPO's and air districts to jointly adopt regional commute benefit policies, with requirements on employers  | Co-Sponsor     |
| SB 669 | Rubio             | States Legislative intent to establish a regulatory framework for carbon geologic storage and capture projects   |                |
| SB 724 | Dutton            | Expands ARB's requirements and considerations when assessing penalties, and imposes new deadlines and requirements on ARB when certifying engines                      | <i>Oppose</i>  |
| SB 730 | Kehoe             | Requires local governments to create an online building permit form for EV charging  |                |
| SB 739 | A.Lowenthal       | Requires ports to assess infrastructure and air quality needs, in consultation with the local MPO and air district, specifying needed projects, funding, and timelines | <i>Support</i> |
| SB 763 | Steinberg         | Establishes California Performance Plus Program and Awards under CalEPA  |                |
| SB 800 | Hancock           | Establishes Voluntary Greenhouse Gas Emission Offset Fund  |                |
| SB 832 | Strickland        | AB 32 spot bill  |                |
| SB 862 | A.Lowenthal       | Establishes Southern CA Goods Movement Authority   |                |
| SB 898 | Steinberg         | Requires at least annual reporting of Moyer fund distribution (possible spot bill)   |                |
| SB 901 | Steinberg         | Limits the BAR-administered vehicle retirement program to the highest polluting vehicles, with priority to vehicles in areas not meeting federal air quality standards |                |
| SBx1 2 | Simitian          | Requires 33% of electricity sales to be renewable by 2010 (up from 20% by 2010)  |                |

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson, Tom Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 7, 2010

Re: Report of the Climate Protection Committee Meeting of March 7, 2011

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Climate Protection Committee met on Monday, March 7, 2011. The Committee received the following reports and updates:

- A) Update on Joint Policy Committee and Climate Bay Area
- B) Local Climate Action Planning Update
- C) Update on AB 32 Implementation

Attached are the staff reports presented in the Climate Protection Committee packet. Chairperson, Jennifer Hosterman will provide an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

- A) None.
- B) None.
- C) None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Lisa Harper  
Approved by: Jennifer C. Cooper

Attachment(s)

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Office Memorandum

To: Chairperson Hosterman and Members  
of the Climate Protection Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 28, 2011

Re: Update on the Joint Policy Committee's Climate Bay Area

---

RECOMMENDED ACTION:

None. Information only.

BACKGROUND

The Joint Policy Committee (JPC) is comprised of Board/Commission representatives of the four Bay Area regional agencies – Association of Bay Area Governments, Bay Area Air Quality Management District, Bay Conservation and Development Commission and Metropolitan Transportation Commission. One of JPC's key programs is Climate Bay Area which focuses on coordinating the climate protection activities of the four agencies and providing a means for networking the agencies' climate protection activities with other organizations in the region. Staff of the four regional agencies are working with Bruce Riordan, climate consultant to JPC, on identifying the future focus of the agencies joint climate work to ensure a more effective use of our collective resources.

DISCUSSION

At the March 7, 2011 meeting of the Climate Protection Committee, Bruce Riordan will present the staff's work to date to identify the most important areas for the agencies to focus their climate protection activities. A draft document entitled "Climate Bay Area, Regional Strategy Recommendation" dated January 7, 2011 is attached.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jean Roggenkamp

Attachment: Climate Bay Area Regional Strategy Recommendations



# ATTACHMENT

## Climate Bay Area Regional Strategy Recommendations **DISCUSSION DRAFT — January 7, 2011**

Climate Bay Area developed the findings and recommendations below through interviews and discussions with more than 100 Bay Area climate/energy *workers* and other stakeholders. The interviews sought to identify:

- The most important climate/energy projects in the region
- The biggest barriers to both reducing our greenhouse gas emissions and preparing for Bay Area climate change impacts
- How to advance Bay Area climate/energy action in the near-term, given the current economic and political environment

*The complete CBA inventory of projects and programs can be viewed online at the Air District climate portal <http://www.ca-ilg.org/node/2255>.*

### SUMMARY FINDINGS

#### **Finding #1:**

There are 100+ excellent, Bay Area climate/energy projects and programs—run by local governments, the private sector, and non-profits—covering building energy, transportation, waste/consumption, agriculture, adaptation and other sectors.

#### **Finding #2:**

While there is considerable *activity*, we are not working at the speed and scale required to (a) begin shifting the region to a low-carbon energy system, and (b) build a more climate-resilient Bay Area.

#### **Finding #3:**

There are significant Bay Area opportunities—in energy efficiency, local renewable power, transportation electrification, etc.— to address the climate crisis and the economic crisis *together*.

#### **Finding #4:**

There are 4 primary reasons why Bay Area stakeholders are taking action on climate and energy:

1. Successful implementation of **AB 32**, recently reaffirmed by California voters, depends significantly on local and regional support if we are to meet the 2020 goal. Strategies like green buildings, improving transportation, expanding renewable energy and water conservation all require, in varying degrees, local and regional actions to implement overall state policies and direction.
2. More than 30 Bay Area local governments have created **climate action plans** that support AB 32 and advance local priority strategies. The implementation of certain high-impact strategies in these plans will both reduce GHGs and provide important **co-benefits** for their

communities—including job creation, business growth, lower utility bills, improved health, expanded transportation options and stronger communities.

3. Bay Area businesses, local governments, non-profits, foundations, etc. are **laying the foundation** for our low-carbon energy future through innovative pilot projects, cross-sector partnerships, the development of bold new ideas, long-range planning, and state-level advocacy for supporting legislation and resources. In particular, we are learning how high-impact strategies like microgrids, building retrofit job training, Property Assisted Clean Energy (PACE) financing, electric vehicle infrastructure, and Priority Development Areas *really work* so they can be ramped-up to regional, state and national scales when resources eventually become available.
4. Local communities, regional agencies, utilities and other stakeholders are beginning to prepare for the unavoidable Bay Area **climate/energy impacts**—sea level rise, freshwater deficits, energy shortages, extreme weather events, etc.—that threaten our public health, economic well-being, biodiversity and quality of life. By undertaking planning activities to make the region more resilient, stakeholders are seeking to both protect what we have and pro-actively create a much stronger Bay Area to compete in the fast-changing 21<sup>st</sup> century.

## RECOMMENDATION

To accelerate the Bay Area’s climate/energy efforts, key regional stakeholders—including the regional agencies, cities/counties, businesses groups, and foundations— should focus their resources on five high-impact projects. This focused approach will accomplish two things. In the next few years, these five projects will support key parts of AB 32, provide great opportunities for learning, demonstrate their co-benefits and help prepare the Bay Area for climate/energy impacts. Looking longer term, these high-impact projects have the potential to integrate climate action, economic development and equity enhancements to help transform the Bay Area.

## PROJECTS

### #1 — Energy Upgrade California (residential and commercial building retrofits)

Energy efficiency is one of the most cost-effective and important strategies for reducing GHGs, increasing energy independence, creating jobs and boosting local economies. McKinsey and Company’s 2009 GHG strategy analysis shows that retrofitting commercial/residential building envelopes, HVAC systems (heating, ventilation and cooling) and lighting are all “net present value (NPV)-positive,” where cash flows from energy savings outweigh the initial upfront capital investment.

We know that attacking residential and commercial energy waste addresses one our of largest GHG sectors; In California, residential and commercial buildings are responsible for 22 percent of total GHG emissions, second only to transportation. Furthermore, a Bay Area-wide building retrofit program could generate tens of thousands of jobs at varying skill levels and boost thousands of small businesses. A California Community Colleges study in 2009 forecast a 38% increase over 3 years in Bay Area building energy efficiency jobs. Next Ten’s *Many Shades of*

*Green* found that California green jobs grew by 36% from 1995-2008 while overall jobs grew only by 13%. Finally, energy-saving retrofits are effectively a permanent utility bill reduction for all households, with particular importance for low- and fixed-income individuals.

Currently, there are a number of separate retrofit programs run by Bay Area cities/counties, PG&E and other utilities, private companies, non-profits and others. The new Energy Upgrade California (EUC) program, funded with \$34 million from the CEC and CPUC, is charged with integrating and strengthening these mostly uncoordinated efforts. EUC will collaborate with its public and private partners to build a more consumer-friendly and effective retrofit system through an integrated web site, marketing/outreach, a financing options clearinghouse, quality assurance programs and coordination with workforce development efforts. EUC will focus much of its statewide efforts on assisting 18 “Plus Counties,” a group that includes all nine counties in our region. EUC will also include two pilot projects (one in Sonoma County) to reconfigure PACE financing programs that have been largely stalled by federal loan agency directives.

***Possible Regional Agency Roles to Support Project #1:***

- Provide Bay Area coordination for EUC program, including the Local Government Advisory Committee (ABAG)
- Coordinate regional retrofit funding applications\* (ABAG)
- Convene stakeholders to design a sustainable, long-term, comprehensive Bay Area retrofit program (ABAG/Climate Bay Area)

\* Denotes work already underway

**#2 — Bay Area Smart Energy 2020 (local decentralized renewable power)**

In San Diego, advocacy groups have developed a strategic energy plan called *San Diego Smart Energy 2020* detailing how that region can get 50 percent of its electricity from renewable power by 2020 and reduce power generation GHGs by 50 percent, both in a cost-effective manner. The plan combines energy efficiency and conservation measures with a greater reliance on local solar, wind and combined heat and power (CHP) power plants, plus improved “smart grid” procedures. The San Diego plan is part of a growing movement that seeks to increase what is called “distributed” or decentralized renewable power, featuring many small and mid-sized solar photovoltaic installations on commercial buildings, schools, local government facilities, areas surrounding freeways and other disturbed/degraded urban open spaces. In this approach, thousands of power producers feed the overall electricity grid.

A 2010 study by UC Berkeley’s RAEL found that a California feed-in-tariff, the financial incentive that makes distributed generation attractive, would, in the next ten years, create three times the number of jobs, increase direct state revenues by \$1.7 billion and stimulate up to \$50 billion in private new investment versus a “business-as-usual” renewable energy supply approach. Distributed power could also be brought on-line much faster than distant centralized sources with long transmission lines. Such a program would increase energy independence (from natural gas price increases, hydropower declines, etc.), bring revenue to building owners and improve air quality. The study found that ratepayers would see a small increase in their bills

from distributed power in the near-term, but would save money long-term as fossil fuel prices inevitably rise.

A number of Bay Area groups are now studying and advocating for local renewable power in our region. Pacific Environment's *Bay Area Smart Energy 2020* (funded by Bay Area foundations) is conducting an analysis similar to the San Diego study. The FiT coalition and others are working in Sacramento for critical legislation that would provide local power producers the monetary incentive to install solar and wind facilities. In January 2011, Marin Clean Energy is kicking off a pilot feed-in-tariff project to pay local renewable energy producers. The Local Clean Energy Alliance and the Sierra Club have just released *Community Power: Decentralized Renewable Energy in California*, a detailed review of costs, economic and environmental benefits, and key issues of the local power approach.

***Possible Regional Agency Roles to Support Project #2:***

- Assist interested stakeholders by convening and facilitating a group of cities, counties, commercial property owners and others to learn about distributed power, including possible implementation steps. (Climate Bay Area)

**#3 — The Bay Area Electric Vehicle/Infrastructure Strategy**

Electrification of the transportation system—through plug-ins like the Chevrolet Volt and full battery EVs like the Nissan Leaf—has the potential to transform our biggest Bay Area GHG sector and improve air quality. A study of PHEV 20's (plug-in hybrid vehicles that go 20 miles on a charge) by the Electric Power Research Institute (EPRI) found that GHGs, *including those from electricity production*, were reduced by at least one-third and as high as two-thirds compared to a conventional vehicle, depending on the power plant fuel source. The Bay Area already has some of the nation's least carbon-intensive electricity (primarily hydroelectric, natural gas and nuclear) and our increasing use of solar, wind and other renewables will make EVs even greener. Similar to the effect of driving less demonstrated in CEOs for Cities' *Portland Dividend*, more EVs can shift billions in Bay Area energy dollars that are currently going to oil companies and foreign countries and redirect them to the local economy.

The regional EV strategy will bring together currently uncoordinated EV stakeholders—beginning with the regional agencies (MTC, BAAQMD and ABAG) and then extending to vehicle and infrastructure companies, local governments, utilities, advocacy groups, the State of California, and others. The strategy will provide a foundation “roadmap” for the on-going, private/public collaboration needed to create a customer-friendly regional EV system, attract critical investment from federal and private sources, and make the Bay Area the EV Capital of the United States.

***Possible Regional Agency Roles to Support Project #3:***

- Lead the development of a regional EV strategy (BAAQMD, ABAG, MTC)
- Assist with funding for EV infrastructure for home charging, public charging, fleets, taxis and car sharing programs (BAAQMD, ABAG, MTC)

#### **#4 — Sustainable Communities Strategy (SB 375 -- transportation/land use)**

Transportation is the largest GHG sector in the Bay Area inventory and a key contributor to local/regional air pollution. An efficient transportation network is critical to regional economic prosperity and to insuring access for millions to jobs, services and recreation. Long-term planning to better coordinate land use and transportation investments is one of the most important strategies for reducing GHGs and other air pollutants, and making our transportation network more productive. Since much of our travel is inter-city, the planning process must bring together local governments, transportation providers and regional agencies.

The Sustainable Communities Strategy (SCS) will implement California's third key climate/energy law (following the Pavley bill for vehicles and AB 32) and will guide the Bay Area's growth over the next 25 years. While its transportation GHG goals—a 7% reduction in per capita transportation GHGs by 2020 and a 15% reduction by 2035—are relatively modest compared to the scale of the transportation GHG problem, the SCS could also produce critical reductions in building energy and water use. Furthermore, the SCS will be able to guide future development based on an analysis of sea level rise, extreme rainfall/flood events, threats to biodiversity and other expected climate impacts.

##### ***Possible Regional Agency Roles to Support Project #4:***

- Lead the development of the Sustainable Community Strategy\* (MTC and ABAG with assistance from BAAQMD and BCDC)

\* Denotes work already underway

#### **#5 — Bay Area Climate Adaptation Strategy**

Over the next few decades, the Bay Area will face significant and unavoidable climate/energy impacts that will threaten our public health, economic prosperity and natural ecosystems. These changes, some of which have already begun, will include sea level rise, fresh water deficits, energy shortages, poorer air quality, extreme heat and rainfall events, and important loss of plant and animal species. While these impacts will affect everyone, some more vulnerable populations and geographic areas will be at much greater risk.

A pro-active and flexible Bay Area Climate Adaptation Strategy will make our region more resilient and prepared for these changing conditions. For example, implementing energy efficiency and water conservation programs now will help us deal with future water shortages and energy price spikes. Planning for bay and coastal shoreline areas with sea level rise in mind will help protect both human infrastructure and natural ecosystems. Identifying high-risk groups for heat stress and other health impacts will help us to implement prevention measures that will save lives. Projections of where plant and animal species are threatened and where they will be most likely to survive can help us design corridors to facilitate their movement.

Because these issues cross city and county lines (and sometimes reach outside the nine-counties) and because they often interact with each other, we must create a coordinated *Bay Area* approach involving diverse stakeholders. Because we will learn more about both problems and solutions as

we move forward, we must devise a flexible strategy approach. The first steps in this process have already begun. A PIER/UC Berkeley report to be released in February will outline the current knowledge on key climate impacts in the nine-county region. In December, Climate Bay Area convened the first regional stakeholder group to outline the goals of a coordinated adaptation planning process. Next, we must secure the resources needed (public agencies, foundations, universities and private sources) to bring together the key players to build the Bay Area strategy.

***Possible Regional Agency Roles to Support Project #5:***

- Lead a coalition of stakeholders to develop a regional adaptation strategy and an on-going adaptation planning process. (Climate Bay Area)

**KEY SUPPORTING ACTIONS**

While the five projects listed above are the heart of the near-term regional climate strategy, there are four important supporting actions that will help the projects to move forward. Since these efforts are not the specific responsibility of any one group, the regional agencies could play a key role in convening stakeholders and coordinating regional action or advocacy.

**Pricing**

The very best thing to do to make regional agency, local government, and private sector projects GO is to get the pricing right. If state and national policies shifted the economic system to favor actions that reduce GHGs (while remaining revenue neutral), we would unleash tremendous innovation from Bay Area businesses, local governments and individuals. Revenue neutrality can be attained through a cap-and-dividend approach or a tax shift where other taxes are lowered. <http://www.carbontax.org/introduction/>

**Story**

We need to create and tell a compelling, positive narrative that describes, in personal terms, an attractive and stronger Bay Area *where we will want to live in 2020 and beyond*. The story will showcase a Bay Area that provides an innovative 21<sup>st</sup> century model for the nation and the world—health, jobs, quality of life, vibrant communities, resilient, etc.—**and a much reduced carbon footprint.**

**Scorecard**

To ground the region, we should create and broadcast a clear picture of *where we are*. We can design and produce a quarterly **Bay Area Scorecard** reporting on KwHs, electricity power mix, natural gas therms, gasoline/diesel consumption and other key indicators. The scorecard will also report on status and key issues for the five high-impact Bay Area projects and other key strategies.

**High-Level Agreement on speed and scale**

We must obtain high-level agreement among a diverse set of Bay Area leaders on the speed and scale required for significant Bay Area action on climate, economic development and social equity. Through the Climate Bay Area/San Francisco Foundation's *30 Leaders Project*, we will identify and explore the common ground for bold action among the Bay Area's economic,

equity, and environmental agendas. How can we together forge a powerful movement that will make the Bay Area a model for the world for the 21<sup>st</sup> century? Topics may include leadership, governance and resources.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Hosterman and Members  
of the Climate Protection Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 16, 2011

Re: Local Government Climate Action Plan Update

RECOMMENDED ACTION:

None. Information only.

BACKGROUND

Some local governments in the Bay Area have been measuring and tracking their greenhouse gas (GHG) emissions since the mid-1990's. Over the past fifteen years, the number of local governments addressing climate protection in their planning activities has increased significantly. Today, over thirty local governments in the Bay Area have adopted local climate action plans (CAPs) to reduce GHG emissions, with many more plans in development.

DISCUSSION

The District has supported the development of local CAPs through a variety of activities, including:

- Offering Climate Protection Grants to develop CAPs and hire climate/energy program staff;
- Convening county-based GHG inventory training workshops with ICLEI;
- Convening Bay Area regional climate protection summits in 2006 and 2009;
- Launching a web portal for Bay Area climate planning with the Institute for Local Government;
- Producing and distributing CEQA-related guidance and tools; and
- Providing responses to requests for data and technical assistance.

Staff will provide an update on the status of climate action planning in the Bay Area, including an overview of CAPs produced to date, those under development, and current assistance needed by local governments to continue with and improve their climate action planning efforts.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Abby Young  
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Hosterman and Members  
of the Climate Protection Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: February 18, 2011

Re: Update on Implementation of AB-32 Control Measures

RECOMMENDED ACTION:

None. Information only.

BACKGROUND

Following the approval of their Climate Change Scoping Plan in December 2008, the California Air Resources Board (CARB) has adopted many of the greenhouse gas (GHG) emission reduction measures identified in the Plan. These include direct regulations for certain mobile and stationary GHG source categories, and the cap-and-trade regulation which will reduce GHG emissions from many sectors through a market-based approach.

District staff has supported CARB in the development of many of the GHG regulations that have been adopted under AB-32. The District will also be taking the lead, and/or assisting CARB, in the implementation and enforcement of direct GHG regulations that apply to Bay Area facilities.

DISCUSSION

Staff will provide an update on the status of implementation of AB-32 control measures, including the cap-and-trade regulation, the landfill methane control regulation, the semiconductor operations regulation, the stationary equipment refrigerant management regulation, and the sulfur hexafluoride regulations.

Staff will also provide a summary of a January 24, 2011, Superior Court tentative decision on a lawsuit that may affect the implementation of the Scoping Plan.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Brian Bateman  
Reviewed by: Jeff McKay



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Bates and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: March 3, 2011

Re: What's in the Air We Breathe and How Do We Measure It?

RECOMMENDED ACTION:

Informational Report. Receive and file.

BACKGROUND

Chairperson Bates requested that staff provide a number of informational presentations throughout the year describing various operations and duties of the Air District. This will be the first in this series, setting the foundation for future discussions.

DISCUSSION

Staff will discuss the composition of the air we breathe, how pollutants affect our health, ambient air quality standards, air quality trends, and the Air District's air monitoring network. An Air Monitoring trailer, similar to the one currently in use at Cupertino, will be available for a tour after the meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Eric Stevenson  
Reviewed by: Jean Roggenkamp