



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **2023 COST RECOVERY REPORT**

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## **Executive Summary**

The 2023 Cost Recovery Study includes the latest fee-related cost and revenue data gathered for three fiscal years (i.e., July 1, 2020 - June 30, 2022). The results of this 2023 Cost Recovery Study will be used as a tool in the preparation of the FYE 2024 budget, and for evaluating potential amendments to the Air District's Regulation 3: Fees.

The completed cost recovery analysis indicates that in FYE 2022 there continued to be a revenue shortfall, as overall direct and indirect costs of regulatory programs exceeded fee revenue (see Figure 2).

For the 3-year period 2020 to 2022, the Air District is recovering approximately 84% of its fee-related activity costs (see Figure 5). The overall magnitude of this cost recovery gap was determined to be approximately \$9.7 million. This cost recovery gap was filled using General Fund revenue received by the Air District from the counties' property tax revenue. The Air District uses the three-year averages in evaluating proposed amendments to Regulation 3, Fees at the fee schedule level because longer averaging periods are less sensitive to year-to-year variations in activity levels that occur due to economic or market variations and regulatory program changes affecting various source categories.

The 2023 Cost Recovery Study also addressed fee-equity issues by analyzing whether there is a revenue shortfall at the individual Fee Schedule level. For the 3-year period, it was noted that of the twenty-two Fee Schedules for which cost recovery could be analyzed, six of the component Fee Schedules had fee revenue contributions exceeding total cost.

## **Background**

The Air District is responsible for protecting public health and the environment by achieving and maintaining health-based national and state ambient air quality standards, and reducing public exposure to toxic air contaminants, in the nine-county Bay Area region. Fulfilling this task involves reducing air pollutant emissions from sources of regulated air pollutants and maintaining these emission reductions over time. In accordance with State law, the Air District's primary regulatory focus is on stationary sources of air pollution.

The Air District has defined units for organizational purposes (known as "Programs") to encompass activities which are either dedicated to mission-critical "direct" functions, such as permitting, rule-making, compliance assurance, sampling and testing, grant distribution, etc., or are primarily dedicated to support and administrative "indirect" functions. The Air District has also defined revenue source categories for time billing purposes (known as "Billing Codes") for all activities, i.e., the permit fee schedules, grant revenue sources, and general support activities.

The Air District's air quality regulatory activities are primarily funded by revenue from regulatory fees, government grants and subventions, and county property taxes. Between 1955 and 1970, the Air District was funded entirely through property taxes. In 1970, the California Air Resources Board (CARB) and U.S. Environmental Protection Agency began providing grant funding to the Air District. After the passage of Proposition 13, the Air District

qualified as a “special district” and became eligible for AB-8 funds, which currently make up the county revenue portion of the budget.

State law authorizes the Air District to impose a schedule of fees to generate revenue to recover the costs of activities related to implementing and enforcing air quality programs. On a regular basis, the Air District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the cost of related program activities.

In 1999, a comprehensive review of the Air District’s fee structure and revenue was completed by the firm KPMG Peat Marwick LLP (*Bay Area Air Quality Management District Cost Recovery Study, Final Report: Phase One – Evaluation of Fee Revenues and Activity Costs; February 16, 1999*). The Study recommended an activity-based costing model, which has been implemented. Also, as a result of that Study, the Air District implemented a time-keeping system. These changes improved the Air District’s ability to track costs by program activities. The 1999 Cost Recovery Study indicated that fee revenue did not offset the full costs of program activities associated with sources subject to fees as authorized by State law. Property tax revenue (and in some years, fund balances) have been used to close this gap.

In 2004, the Air District’s Board of Directors approved funding for an updated Cost Recovery Study that was conducted by the accounting/consulting firm Stonefield Josephson, Inc. (*Bay Area Air Quality Management District Cost Recovery Study, Final Report; March 30, 2005*). This Cost Recovery Study analyzed data collected during the three-year period FYE 2002 through FYE 2004. It compared the Air District’s costs of program activities to the associated fee revenues and analyzed how these costs are apportioned amongst the fee-payers. The Study indicated that a significant cost recovery gap existed. The results of this 2005 report and subsequent internal cost recovery studies have been used by the Air District in its budgeting process, and to set various fee schedules.

In March 2011, another study was completed by Matrix Consulting Group (*Cost Recovery and Containment Study, Bay Area Air Quality Management District, Final Report; March 9, 2011*). The purpose of this Cost Recovery and Containment Study was to provide the Air District with guidance and opportunities for improvement regarding its organization, operation, and cost recovery/allocation practices. A Cost Allocation Plan was developed and implemented utilizing FYE 2010 expenditures. This Study indicated that overall, the Air District continued to under-recover the costs associated with its fee-related services. In order to reduce the cost recovery gap, further fee increases were recommended for adoption over a period of time in accordance with a Cost Recovery Policy to be adopted by the Air District’s Board of Directors. Also, Matrix Consulting Group reviewed and discussed the design and implementation of the new Production System which the Air District is developing in order to facilitate cost containment through increased efficiency and effectiveness.

Air District staff initiated a process to develop a Cost Recovery Policy in May 2011, and a Stakeholder Advisory Group was convened to provide input in this regard. A Cost Recovery Policy was adopted by the Air District’s Board of Directors on March 7, 2012. This policy specifies that the Air District should amend its fee regulation, in conjunction with the adoption of budgets for Fiscal Year Ending (FYE) 2014 through FYE 2018, in a manner

sufficient to increase overall recovery of regulatory program activity costs to at least 85%. The policy also indicates that amendments to specific fee schedules should continue to be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps.

In February 2018, Matrix Consulting Group (Matrix) completed an update of the 2011 cost recovery and containment study for the fiscal year that ended June 30, 2017. The primary purpose of this Study was to evaluate the indirect overhead costs associated with the Air District and the cost recovery associated with the fees charged, by the Air District. The project team evaluated the Air District's FYE 2017 Programs to assess their classification as "direct" or "indirect". In addition, they audited the time tracking data associated with each of the different fee schedules. The Study provided specific recommendations related to direct and indirect cost recovery for the Air District, as well as potential cost efficiencies. The Air District is currently working with Matrix to complete an update of the February 2018 cost recovery and containment study.

In July 2021, the Air District retained the services of the Matrix Consulting Group. The work was prompted by the Board to study the Air District's current indirect costs as well as fee-related cost recovery by fee schedule and continue to look at any cost containment practices. A key goal of this analysis was to determine methods to obtain 100% cost recovery associated with fee-based activities and schedules. The final report was presented to the Budget and Finance Committee on April 27, 2022. The proposed policy was developed using the 2022 Matrix study findings and comments from the Board meetings. On December 7, 2022, the Board of Directors adopted an amended Cost Recovery and Containment Policy (Consent Item 22) that provides the framework for the Air District to contain costs and to adjust fees in support of its regulatory programs. See Attachment 1. The policy has three (3) main elements: 1) Cost Containment, 2) Analysis of Cost Recovery and 3) Cost Recovery Goals. Part 3 provides the strategic framework for the Regulation 3 rule development process that is conducted in parallel with the next fiscal year annual budget.

This 2023 Cost Recovery Study incorporated the accounting methodologies developed by KPMG in 1999, Stonefield Josephson, Inc. in 2005 and Matrix Consulting Group in 2011. The Study included the latest cost and revenue data gathered for FYE 2022 (i.e., July 1, 2020 - June 30, 2022). The results of the 2023 Cost Recovery Study will be used as a tool in the preparation of the budget for FYE 2024, and for evaluating potential amendments to the Air District's Regulation 3: Fees.

## **Legal Authority**

In the post-Prop 13 era, the State Legislature determined that the cost of programs to address air pollution should be borne by the individuals and businesses that cause air pollution through regulatory and service fees. The primary authority for recovering the cost of Air District programs and activities related to stationary sources is given in Section 42311 of the Health and Safety Code (HSC), under which the Air District is authorized to:

- Recover the costs of programs related to permitted stationary sources
- Recover the costs of programs related to area-wide and indirect sources of emissions which are regulated, but for which permits are not issued

- Recover the costs of certain hearing board proceedings
- Recover the costs related to programs that regulate toxic air contaminants

The measure of the revenue that may be recovered through stationary source fees is the full cost of all activities related to these sources, including all direct Program costs and a commensurate share of indirect Program costs. Such fees are valid so long as they do not exceed the reasonable cost of the service or regulatory program for which the fee is charged, and are apportioned amongst fee payers such that the costs allocated to each fee-payer bears a fair or reasonable relationship to its burden on, and benefits from, the regulatory system.

Air districts have restrictions in terms of the rate at which permit fees may be increased. Under HSC Section 41512.7, existing fees for authority-to-construct permits or permits to operate cannot be increased by more than 15% in any calendar year.

## **Study Methodology**

The methodology for determining regulatory program revenue and costs is summarized as follows:

### Revenue

Revenue from all permit renewals and applications during the FYE 2022 was assigned to the appropriate Permit Fee Schedules. This is a continued improvement over prior years' process, as more facilities are managed in the New Production System.

### Costs

Costs are expenditures that can be characterized as being either direct or indirect. Direct costs can be identified specifically with a particular program activity. Direct costs include wages and benefits, operating expenses, and capital expenditures used in direct support of the particular activities of the Air District (e.g., permit-related activities, grant distribution, etc.).

Indirect costs are those necessary for the general operation of the Air District as a whole. Often referred to as "overhead", these costs include accounting, finance, human resources, facility costs, information technology, executive management, etc. Indirect costs are allocated to other indirect Programs, using the reciprocal (double-step down) method, before being allocated to direct Programs.

Employee work time is tracked by the hour, or fraction thereof, using both Program and Billing Code detail. This time-keeping system allows for the capture of all costs allocatable to a revenue source on a level-of-effort basis.

Employee work time is allocated to activities within Programs by billing codes (BC1-BC99), only two of which indicate general support. One of these two general support codes (BC8) is identified with permitting activities of a general nature, not specifically related to a particular Fee Schedule.

Operating and capital expenses are charged through the year to each Program, as incurred. In cost recovery, these expenses, through the Program's Billing Code profile, are allocated on a pro-rata basis to each Program's revenue-related activity. For example, employees working in grant Programs (i.e., Smoking Vehicle, Mobile Source Incentive Fund, etc.) use specific billing codes (i.e., BC3, BC17, etc.). All operating/capital expense charges in those grant Programs are allocated pro-rata to those grant activities. Employees working in permit-related Programs (i.e., Air Toxics, Compliance Assurance, Source Testing, etc.) also use specific permit-related billing codes (i.e., BC8, BC21, BC29, etc.) and all operating/capital expense charges incurred by those Programs are allocated pro-rata to those Program's activity profiles, as defined by the associated billing codes.

Direct costs for permit activities include personnel, operating and capital costs based on employee work time allocated to direct permit-related activities, and to general permit-related support and administrative activities (allocated to Fee Schedules on pro-rata basis). Indirect costs for permit activities include that portion of general support personnel, operating and capital costs allocated pro-rata to permit fee revenue-related program activities.

## **Study Results**

Figure 1 shows a summary of overall regulatory program costs and revenue for FYE 2022. Figure 2 shows the details of costs and revenue on a fee schedule basis for FYE 2022. Figure 3 shows the details of costs and revenue on a fee schedule basis for FYE 2021. Figure 4 shows the details of costs and revenue on a fee schedule basis for FYE 2020. Figure 5 shows the details of average fee schedule costs and revenue for the three-year period FYE 2020 through FYE 2022.

## **Discussion of Results**

Figure 1 indicates that in FYE 2022 there continued to be a revenue shortfall, as the direct and indirect costs of regulatory programs exceeded fee revenue. The overall magnitude of the cost recovery gap was determined to be \$8.9 million for FYE 2022. This cost recovery gap was filled by General Fund revenue received by the Air District from the counties.

Figure 2 shows that in FYE 2022 there were revenue shortfalls for most of the twenty-two fee schedules for which cost recovery can be analyzed. For FYE 2022, the Air District is recovering 85.93% of its fee-related activity costs. Collected revenue exceeds Program costs for six (6) fee schedules:

- Schedule C (Stationary Containers for the Storage of Organic Liquids),
- Schedule D (Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals),
- Schedule L (Asbestos Operations),
- Schedule N (Toxic Inventory Fees),
- Schedule R (Equipment Registration Fees),
- Schedule T (Greenhouse Gas Fees).

Collected revenue was less than program costs for the following 16 fee schedules:

- Schedule A (Hearing Board),
- Schedule B (Combustion of Fuels),
- Schedule E (Solvent Evaporating Sources),
- Schedule F (Miscellaneous Sources (e.g., storage silos, abrasive blasting)),
- Schedule G-1 (Miscellaneous Sources (e.g., glass manufacturing, soil remediation)),
- Schedule G-2 (Miscellaneous Sources (e.g., asphaltic concrete, furnaces)),
- Schedule G-3 (Miscellaneous Sources (e.g., metal melting, cracking units)),
- Schedule G-4 (Miscellaneous Sources (e.g., cement kilns, sulfur removal and coking units, acid manufacturing)),
- Schedule G-5 (Miscellaneous Sources (e.g., refinery flares)),
- Schedule H (Semiconductor and Related Operations),
- Schedule I (Dry Cleaners),
- Schedule K (Solid Waste Disposal Sites),
- Schedule P (Major Facility Review Fees),
- Schedule S (Naturally Occurring Asbestos Operations),
- Schedule V (Open Burning), and
- Schedule W (Refinery Emissions Tracking).

Figure 5 shows that over a three-year period (FYE 2020 through FYE 2022) there were revenue shortfalls for most of the twenty-two fee schedules for which cost recovery can be analyzed. For this three-year period, the Air District is recovering approximately 84.31% of its fee-related activity costs. Collected revenue exceeds costs for six (6) fee schedules:

- Schedule C (Stationary Containers for the Storage of Organic Liquids),
- Schedule D (Gasoline Transfer at Gasoline Dispensing Facilities, Bulk Plants and Terminals),
- Schedule L (Asbestos Operations),
- Schedule N (Toxic Inventory Fees),
- Schedule P (Major Facility Review, Title V), and
- Schedule R (Equipment Registration Fees).

Collected revenue was lower than costs for the following 16 fee schedules:

- Schedule A (Hearing Board),
- Schedule B (Combustion of Fuel),
- Schedule E (Solvent Evaporating Sources),
- Schedule F (Miscellaneous Sources (e.g., storage silos, abrasive blasting)),
- Schedule G-1 (Miscellaneous Sources (e.g., glass manufacturing, soil remediation)),
- Schedule G-2 (Miscellaneous Sources (e.g., asphaltic concrete, furnaces)),
- Schedule G-3 (Miscellaneous Sources (e.g., metal melting, cracking units)),
- Schedule G-4 (Miscellaneous Sources (e.g., cement kilns, sulfur removal and coking units, acid manufacturing)),
- Schedule G-5 (Miscellaneous Sources (e.g., refinery flares)),
- Schedule H (Semiconductor and Related Operations),
- Schedule I (Dry Cleaners),
- Schedule K (Solid Waste Disposal Sites),
- Schedule S (Naturally Occurring Asbestos Operations),
- Schedule T (Greenhouse Gas Fees),



- Schedule V (Open Burning), and
- Schedule W (Refinery Emissions Tracking).

The Air District uses the three-year averages shown in Figure 5 in evaluating proposed amendments to Regulation 3, Fees at the fee schedule level because longer averaging periods are less sensitive to year-to-year variations in activity levels that occur due to economic or market variations and regulatory program changes affecting various source categories.

## **Conclusions**

Air District staff has updated the analysis of cost recovery of its regulatory programs based on the methodology established by the accounting firms KPMG in 1999 and Stonefield Josephson, Inc. in 2005 and updated by Matrix Consulting Group in 2011 and in 2018. The analysis shows that fee revenue continues to fall short of recovering activity costs. For FYE 2020 to 2022, the Air District is recovering approximately 84% of its fee-related activity costs. The overall magnitude of this cost recovery gap was determined to be approximately \$9.7 million.

To reduce or stabilize expenditures, the Air District has implemented various types of cost containment strategies, including developing an online permitting system for high-volume source categories and expanding it to all source categories, maintaining unfilled positions when feasible, and reducing service and supply budgets. In addition, a management audit is currently underway that is analyzing the Air District's programs and the use of staff resources for its programs. In order to reduce the cost recovery gap, further fee increases will need to be evaluated in accordance with the Cost Recovery and Containment Policy adopted by the Air District's Board of Directors.



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## **2023 Cost Recovery Study**

### **FIGURES**

Figure 1: Total Permit Fee Revenue, Costs and Gap for FYE 2022

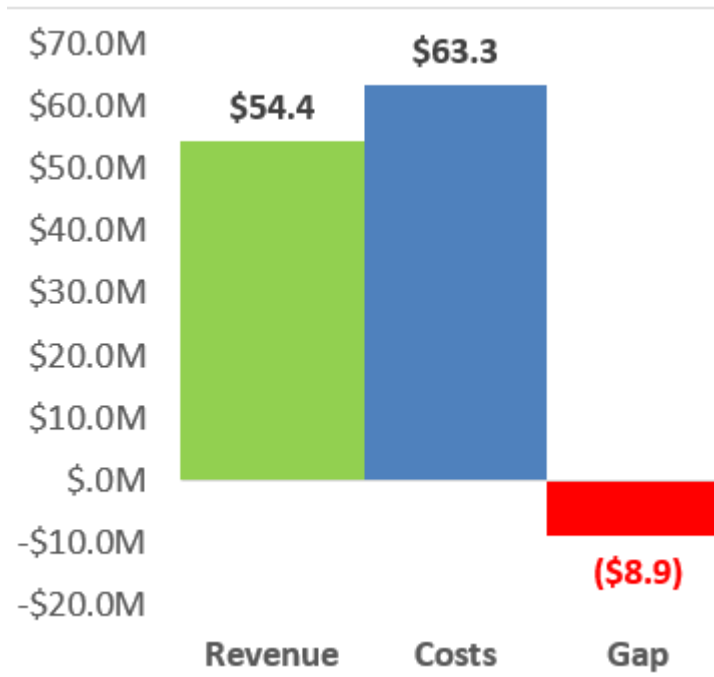


Figure 2: Fee Revenue and Program Costs by Fee Schedule, FYE 2022

| Fee Schedule                          | Direct Cost         | Indirect Cost       | Total Cost          | Application & Renewal  | Reg 3-312          | Reg 3-327.1      | Reg 3-327.2        | Reg 3-327.3      | Reg 3-OBC          | Reg 3-311      | Total Revenue  | Surplus/Deficit     | Cost Recovery %      |               |
|---------------------------------------|---------------------|---------------------|---------------------|--|--------------------|------------------|--------------------|------------------|--------------------|----------------|----------------|---------------------|----------------------|---------------|
|                                       |                     |                     |                     | Revenue  | Schedule M         | Renewal          | AB617 Fee          | CTR              | Fees               | Banking        |                |                     |                      |               |
|                                       | Indirect Sale       |                     |                     | Schedule M Reg 3-312 Reg 3-327.1 Reg 3-327.2 Reg 3-327.3 Reg 3-OBC Reg 3-311 - Banking |                    |                  |                    |                  |                    |                |                |                     |                      |               |
| FS_A-Hearing Board                    | 33,970              | 41,433              | 75,403              | 353  | -                  | -                | -                  | -                | -                  | -              | 353            | (75,050)            | 0.47%                |               |
| FS_B-Combustion of Fuel               | 7,893,556           | 4,068,298           | 11,961,854          | 8,793,185  | 582,023            | 236,655          | 776,362            | 326,505          | 400,120            | 2,018          | 5,676          | 11,122,543          | (839,312)            | 92.98%        |
| FS_C-Storage Organic Liquid           | 1,106,057           | 551,981             | 1,658,038           | 2,442,096  | 126,595            | 201,110          | 33,663             | 155,117          | 119,216            | -              | -              | 3,077,798           | 1,419,760            | 185.63%       |
| FS_D                                  | 4,632,049           | 2,399,869           | 7,031,918           | 6,863,456  | 33,749             | 47,173           | 245,143            | 40,327           | 257,453            | -              | -              | 7,487,300           | 455,382              | 106.48%       |
| FS_E-Solvent Evaporation              | 2,470,406           | 1,332,906           | 3,803,313           | 3,039,950  | 83,894             | 32,040           | 190,403            | 46,102           | 108,305            | 135            | -              | 3,500,829           | (302,484)            | 92.05%        |
| FS_F-Misc.                            | 3,257,741           | 1,669,041           | 4,926,782           | 2,184,531  | 128,754            | 91,897           | 138,706            | 156,310          | 193,640            | -              | -              | 2,893,837           | (2,032,945)          | 58.74%        |
| FS_G1-Misc.                           | 4,040,279           | 2,153,764           | 6,194,042           | 3,576,003  | 147,327            | 92,921           | 44,144             | 76,549           | 95,376             | -              | -              | 4,032,320           | (2,161,722)          | 65.10%        |
| FS_G2-Misc.                           | 1,861,747           | 943,739             | 2,805,486           | 1,108,676  | 69,951             | 60,033           | 8,263              | 34,191           | 30,545             | -              | -              | 1,311,659           | (1,493,827)          | 46.75%        |
| FS_G3-Misc.                           | 1,173,780           | 651,586             | 1,825,366           | 968,983  | 21,655             | 54,545           | 514                | 31,778           | 16,693             | -              | -              | 1,094,168           | (731,198)            | 59.94%        |
| FS_G4-Misc.                           | 2,268,311           | 1,210,110           | 3,478,421           | 1,598,477  | 386,459            | 52,369           | 480                | 34,148           | 17,736             | -              | -              | 2,089,669           | (1,388,752)          | 60.08%        |
| FS_G5-Misc.                           | 716,979             | 407,625             | 1,124,604           | 681,658  | 31,708             | 52,475           | 274                | 28,359           | 13,945             | -              | -              | 808,418             | (316,186)            | 71.88%        |
| FS_H-Semiconductor                    | 432,852             | 224,335             | 657,186             | 241,788  | -                  | -                | 19,691             | -                | 9,777              | -              | -              | 271,256             | (385,930)            | 41.28%        |
| FS_I-Drycleaners                      | 6,754               | 3,661               | 10,416              | 562  | -                  | -                | 102                | -                | 39                 | -              | -              | 703                 | (9,713)              | 6.75%         |
| FS_K-Waste Disposal                   | 1,863,862           | 1,028,934           | 2,892,796           | 189,186  | 120,267            | -                | 3,593              | 10,310           | 11,070             | -              | -              | 334,426             | (2,558,370)          | 11.56%        |
| FS_L-Asbestos                         | 1,470,586           | 870,737             | 2,341,323           | 4,179,151  | -                  | -                | -                  | -                | -                  | -              | -              | 4,179,151           | 1,837,828            | 178.50%       |
| FS_N-AB 2588                          | 428,326             | 213,177             | 641,503             | 1,604,232  | -                  | -                | -                  | -                | -                  | -              | -              | 1,604,232           | 962,729              | 250.07%       |
| FS_P-Title V                          | 4,383,740           | 2,444,817           | 6,828,557           | 6,664,160  | -                  | -                | -                  | -                | -                  | -              | -              | 6,664,160           | (164,397)            | 97.59%        |
| FS_R-Registration                     | 159,439             | 98,222              | 257,661             | 331,367  | 521                | -                | 27,965             | 14,441           | 23,529             | -              | -              | 397,823             | 140,163              | 154.40%       |
| FS_S-NatOccAsbBillable                | 432,514             | 244,994             | 677,508             | 139,486  | -                  | -                | -                  | -                | -                  | -              | -              | 139,486             | (538,023)            | 20.59%        |
| FS_T-GHG                              | 1,786,972           | 815,414             | 2,602,387           | 2,966,045  | -                  | -                | -                  | -                | -                  | -              | -              | 2,966,045           | 363,658              | 113.97%       |
| FS_V-Open Burning                     | 486,632             | 311,070             | 797,702             | 248,007  | -                  | -                | -                  | -                | -                  | -              | -              | 248,007             | (549,695)            | 31.09%        |
| FS_W-PetroleumRefiningEmissionsReport | 452,923             | 264,366             | 717,289             | 175,432  | -                  | -                | -                  | -                | -                  | -              | -              | 175,432             | (541,857)            | 24.46%        |
| <b>2022 SUM</b>                       | <b>\$41,359,475</b> | <b>\$21,950,080</b> | <b>\$63,309,555</b> | <b>\$47,996,785</b>  | <b>\$1,732,903</b> | <b>\$921,216</b> | <b>\$1,489,302</b> | <b>\$954,137</b> | <b>\$1,297,444</b> | <b>\$2,153</b> | <b>\$5,676</b> | <b>\$54,399,616</b> | <b>(\$8,909,938)</b> | <b>85.93%</b> |

Figure 3: Fee Revenue and Program Costs by Fee Schedule, FYE 2021

| Fee Schedule                          | Direct Cost         | Indirect Cost       | Total Cost          | Application & Renewal Revenue | Schedule M         | Reg 3-312 Bubble | Reg 3-327.1 Renewal Processing | Reg 3-327.2 - AB617 Fee | Reg 3-327.3 - CTR Fee | Reg 3-OBC Fees | Reg 3-311 - Banking | Total Revenue       | Surplus/Deficit       | Cost Recovery % |
|---------------------------------------|---------------------|---------------------|---------------------|-------------------------------|--------------------|------------------|--------------------------------|-------------------------|-----------------------|----------------|---------------------|---------------------|-----------------------|-----------------|
| FS_A-Hearing Board                    | 56,402              | 26,852              | 83,254              | 14,318                        | -                  | -                | -                              | -                       | -                     | -              | -                   | 14,318              | (68,936)              | 17.20%          |
| FS_B-Combustion of Fuel               | 7,726,960           | 3,916,462           | 11,643,422          | 8,645,644                     | 675,657            | 185,643          | 478,794                        | 258,497                 | -                     | -              | 7,620               | 10,251,855          | (1,391,567)           | 88.05%          |
| FS_C-Storage Organic Liquid           | 1,068,686           | 517,654             | 1,586,341           | 2,425,794                     | 141,097            | 164,370          | 33,347                         | 117,138                 | -                     | -              | -                   | 2,881,746           | 1,295,405             | 181.66%         |
| FS_D                                  | 4,245,809           | 2,261,320           | 6,507,130           | 6,888,556                     | 47,035             | 59,251           | 240,285                        | 47,495                  | -                     | -              | -                   | 7,282,623           | 775,493               | 111.92%         |
| FS_E-Solvent Evaporation              | 2,163,333           | 1,149,365           | 3,312,699           | 2,810,725                     | 68,961             | 38,453           | 194,272                        | 29,561                  | -                     | -              | -                   | 3,141,973           | (170,726)             | 94.85%          |
| FS_F-Misc.                            | 3,374,077           | 1,669,249           | 5,043,326           | 2,198,594                     | 151,028            | 87,616           | 139,464                        | 160,529                 | -                     | -              | -                   | 2,737,231           | (2,306,094)           | 54.27%          |
| FS_G1-Misc.                           | 3,944,152           | 2,069,514           | 6,013,666           | 3,169,503                     | 148,630            | 91,132           | 42,963                         | 79,901                  | -                     | -              | -                   | 3,532,130           | (2,481,536)           | 58.74%          |
| FS_G2-Misc.                           | 1,482,840           | 796,078             | 2,278,917           | 1,028,305                     | 35,490             | 67,996           | 7,754                          | 39,801                  | -                     | -              | -                   | 1,179,345           | (1,099,572)           | 51.75%          |
| FS_G3-Misc.                           | 985,122             | 564,659             | 1,549,781           | 731,826                       | 24,454             | 63,793           | 596                            | 37,938                  | -                     | -              | -                   | 858,606             | (691,175)             | 55.40%          |
| FS_G4-Misc.                           | 2,097,031           | 1,072,688           | 3,169,719           | 1,546,403                     | 617,392            | 62,646           | 558                            | 41,136                  | -                     | -              | -                   | 2,268,137           | (901,583)             | 71.56%          |
| FS_G5-Misc.                           | 545,053             | 300,611             | 845,664             | 748,634                       | 34,567             | 62,482           | 349                            | 35,734                  | -                     | -              | -                   | 881,766             | 36,102                | 104.27%         |
| FS_H-Semiconductor                    | 221,204             | 114,783             | 335,987             | 191,526                       | -                  | -                | 4,738                          | -                       | -                     | -              | -                   | 196,264             | (139,723)             | 58.41%          |
| FS_I-Drycleaners                      | 11,530              | 6,832               | 18,362              | 2,146                         | -                  | -                | 200                            | -                       | -                     | -              | -                   | 2,346               | (16,016)              | 12.78%          |
| FS_K-Waste Disposal                   | 1,983,563           | 1,112,198           | 3,095,762           | 207,361                       | 107,226            | -                | 3,896                          | 10,547                  | -                     | -              | -                   | 329,030             | (2,766,732)           | 10.63%          |
| FS_L-Asbestos                         | 1,546,351           | 984,848             | 2,531,200           | 3,989,403                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 3,989,403           | 1,458,203             | 157.61%         |
| FS_N-AB 2588                          | 1,194,223           | 566,983             | 1,761,206           | 1,972,317                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 1,972,317           | 211,111               | 111.99%         |
| FS_P-Title V                          | 3,631,018           | 2,024,791           | 5,655,809           | 6,188,182                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 6,188,182           | 532,374               | 109.41%         |
| FS_R-Registration                     | 79,494              | 45,021              | 124,515             | 285,718                       | 2,136              | -                | 20,203                         | 8,464                   | -                     | -              | -                   | 316,521             | 192,006               | 254.20%         |
| FS_S-NatOccAsbBillable                | 387,951             | 212,513             | 600,464             | 105,251                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 105,251             | (495,213)             | 17.53%          |
| FS_T-GHG                              | 2,077,606           | 940,313             | 3,017,920           | 2,890,490                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 2,890,490           | (127,430)             | 95.78%          |
| FS_V-Open Burning                     | 435,117             | 249,263             | 684,380             | 212,252                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 212,252             | (472,128)             | 31.01%          |
| FS_W-PetroleumRefiningEmissionsReport | 1,149,167           | 569,104             | 1,718,271           | 152,547                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 152,547             | (1,565,724)           | 8.88%           |
| <b>2021 SUM</b>                       | <b>\$40,406,691</b> | <b>\$21,171,102</b> | <b>\$61,577,793</b> | <b>\$46,405,496</b>           | <b>\$2,053,673</b> | <b>\$883,383</b> | <b>\$1,167,419</b>             | <b>\$866,741</b>        |                       |                | <b>\$7,620</b>      | <b>\$51,384,333</b> | <b>(\$10,193,460)</b> | <b>83.45%</b>   |

Figure 4: Fee Revenue and Program Costs by Fee Schedule, FYE 2020

| Fee Schedule                          | Direct Cost         | Indirect Cost       | Total Cost          | Application & Renewal Revenue | Schedule M         | Reg 3-312 Bubble | Reg 3-327.1 Renewal Processing | Reg 3-327.2 - AB617 Fee | Reg 3-327.3 - CTR Fee | Reg 3-OBC Fees | Reg 3-311 - Banking | Total Revenue       | Surplus/Deficit       | Cost Recovery % |
|---------------------------------------|---------------------|---------------------|---------------------|-------------------------------|--------------------|------------------|--------------------------------|-------------------------|-----------------------|----------------|---------------------|---------------------|-----------------------|-----------------|
| FS_A-Hearing Board                    | 34,904              | 31,170              | 66,074              | 37,093                        | -                  | -                | -                              | -                       | -                     | -              | -                   | 37,093              | (28,981)              | 56.14%          |
| FS_B-Combustion of Fuel               | 6,502,684           | 3,767,955           | 10,270,639          | 8,308,863                     | 694,801            | 193,890          | 462,260                        | -                       | -                     | -              | 11,176              | 9,670,991           | (599,648)             | 94.16%          |
| FS_C-Storage Organic Liquid           | 754,010             | 428,562             | 1,182,572           | 2,258,275                     | 139,716            | 172,986          | 32,950                         | -                       | -                     | -              | -                   | 2,603,926           | 1,421,354             | 220.19%         |
| FS_D                                  | 3,629,779           | 2,103,899           | 5,733,678           | 6,737,714                     | 43,647             | 58,089           | 238,047                        | -                       | -                     | -              | -                   | 7,077,497           | 1,343,820             | 123.44%         |
| FS_E-Solvent Evaporation              | 2,554,931           | 1,590,928           | 4,145,859           | 4,028,203                     | 68,820             | 38,257           | 203,423                        | -                       | -                     | -              | -                   | 4,338,702           | 192,843               | 104.65%         |
| FS_F-Misc.                            | 2,720,691           | 1,569,518           | 4,290,209           | 2,395,565                     | 162,906            | 90,929           | 141,782                        | -                       | -                     | -              | -                   | 2,791,183           | (1,499,026)           | 65.06%          |
| FS_G1-Misc.                           | 3,797,994           | 2,189,792           | 5,987,787           | 3,092,209                     | 147,602            | 94,370           | 43,502                         | -                       | -                     | -              | -                   | 3,377,683           | (2,610,104)           | 56.41%          |
| FS_G2-Misc.                           | 1,107,628           | 644,724             | 1,752,352           | 992,082                       | 33,564             | 68,224           | 7,851                          | -                       | -                     | -              | -                   | 1,101,720           | (650,631)             | 62.87%          |
| FS_G3-Misc.                           | 739,290             | 445,393             | 1,184,682           | 701,913                       | 21,684             | 63,219           | 567                            | -                       | -                     | -              | -                   | 787,383             | (397,300)             | 66.46%          |
| FS_G4-Misc.                           | 2,219,283           | 1,295,895           | 3,515,178           | 1,448,914                     | 792,773            | 61,887           | 619                            | -                       | -                     | -              | -                   | 2,304,192           | (1,210,986)           | 65.55%          |
| FS_G5-Misc.                           | 339,096             | 226,803             | 565,899             | 670,430                       | 31,853             | 61,798           | 335                            | -                       | -                     | -              | -                   | 764,415             | 198,516               | 135.08%         |
| FS_H-Semiconductor                    | 170,674             | 99,621              | 270,295             | 236,693                       | -                  | -                | 4,867                          | -                       | -                     | -              | -                   | 241,559             | (28,736)              | 89.37%          |
| FS_I-Drycleaners                      | 26,507              | 17,098              | 43,605              | 2,363                         | -                  | -                | 358                            | -                       | -                     | -              | -                   | 2,721               | (40,884)              | 6.24%           |
| FS_K-Waste Disposal                   | 2,592,513           | 1,606,577           | 4,199,091           | 186,010                       | 114,805            | -                | 3,991                          | -                       | -                     | -              | -                   | 304,806             | (3,894,285)           | 7.26%           |
| FS_L-Asbestos                         | 1,515,640           | 1,204,827           | 2,720,468           | 4,283,337                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 4,283,337           | 1,562,869             | 157.45%         |
| FS_N-AB 2588                          | 1,084,457           | 535,641             | 1,620,097           | 754,864                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 754,864             | (865,233)             | 46.59%          |
| FS_P-Title V                          | 3,469,393           | 2,123,430           | 5,592,823           | 6,096,660                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 6,096,660           | 503,837               | 109.01%         |
| FS_R-Registration                     | 49,201              | 37,869              | 87,071              | 350,329                       | 2,365              | -                | 13,124                         | -                       | -                     | -              | -                   | 365,818             | 278,747               | 420.14%         |
| FS_S-NatOccAsbBillable                | 347,150             | 254,183             | 601,333             | 97,167                        | -                  | -                | -                              | -                       | -                     | -              | -                   | 97,167              | (504,166)             | 16.16%          |
| FS_T-GHG                              | 3,112,676           | 1,516,281           | 4,628,957           | 3,136,724                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 3,136,724           | (1,492,233)           | 67.76%          |
| FS_V-Open Burning                     | 471,967             | 393,719             | 865,685             | 203,364                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 203,364             | (662,322)             | 23.49%          |
| FS_W-PetroleumRefiningEmissionsReport | 871,680             | 494,150             | 1,365,830           | 152,547                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 152,547             | (1,213,283)           | 11.17%          |
| <b>2020 SUM</b>                       | <b>\$38,112,147</b> | <b>\$22,578,035</b> | <b>\$60,690,182</b> | <b>\$46,171,317</b>           | <b>\$2,254,536</b> | <b>\$903,647</b> | <b>\$1,153,676</b>             | <b>\$0</b>              |                       |                | <b>\$11,176</b>     | <b>\$50,494,352</b> | <b>(\$10,195,830)</b> | <b>83.20%</b>   |

Figure 5: Fee Revenue and Program Costs by Fee Schedule, FYE 2020-2022, 3-Year Average

| Fee Schedule                          | Direct Cost         | Indirect Cost       | Total Cost          | Application & Renewal Revenue | Schedule M         | Reg 3-312 Bubble | Reg 3-327.1 Renewal Processing | Reg 3-327.2 - AB617 Fee | Reg 3-327.3 - CTR Fee | Reg 3-OBC Fees | Reg 3-311 - Banking | Total Revenue       | Surplus/Deficit      | Cost Recovery % |
|---------------------------------------|---------------------|---------------------|---------------------|-------------------------------|--------------------|------------------|--------------------------------|-------------------------|-----------------------|----------------|---------------------|---------------------|----------------------|-----------------|
| FS_A-Hearing Board                    | 41,758              | 33,152              | 74,910              | 17,255                        | -                  | -                | -                              | -                       | -                     | -              | -                   | 17,255              | (57,656)             | 23.03%          |
| FS_B-Combustion of Fuel               | 7,374,400           | 3,917,572           | 11,291,972          | 8,582,564                     | 650,827            | 205,396          | 572,472                        | 292,501                 | 400,120               | 2,018          | 8,157               | 10,348,463          | (943,509)            | 91.64%          |
| FS_C-Storage Organic Liquid           | 976,251             | 499,399             | 1,475,650           | 2,375,388                     | 135,803            | 179,488          | 33,320                         | 136,127                 | 119,216               | -              | -                   | 2,854,490           | 1,378,840            | 193.44%         |
| FS_D                                  | 4,169,212           | 2,255,029           | 6,424,242           | 6,829,909                     | 41,477             | 54,838           | 241,158                        | 43,911                  | 257,453               | -              | -                   | 7,282,473           | 858,232              | 113.36%         |
| FS_E-Solvent Evaporation              | 2,396,224           | 1,357,733           | 3,753,957           | 3,292,959                     | 73,892             | 36,250           | 196,033                        | 37,832                  | 108,305               | 135            | -                   | 3,660,501           | (93,455)             | 97.51%          |
| FS_F-Misc.                            | 3,117,503           | 1,635,936           | 4,753,439           | 2,259,563                     | 147,563            | 90,147           | 139,984                        | 158,420                 | 193,640               | -              | -                   | 2,807,417           | (1,946,022)          | 59.06%          |
| FS_G1-Misc.                           | 3,927,475           | 2,137,690           | 6,065,165           | 3,279,238                     | 147,853            | 92,808           | 43,536                         | 78,225                  | 95,376                | -              | -                   | 3,647,378           | (2,417,787)          | 60.14%          |
| FS_G2-Misc.                           | 1,484,071           | 794,847             | 2,278,918           | 1,043,021                     | 46,335             | 65,417           | 7,956                          | 36,996                  | 30,545                | -              | -                   | 1,197,575           | (1,081,344)          | 52.55%          |
| FS_G3-Misc.                           | 966,064             | 553,879             | 1,519,943           | 800,907                       | 22,598             | 60,519           | 559                            | 34,858                  | 16,693                | -              | -                   | 913,386             | (606,557)            | 60.09%          |
| FS_G4-Misc.                           | 2,194,875           | 1,192,898           | 3,387,773           | 1,531,265                     | 598,874            | 58,968           | 552                            | 37,642                  | 17,736                | -              | -                   | 2,220,666           | (1,167,107)          | 65.55%          |
| FS_G5-Misc.                           | 533,709             | 311,680             | 845,389             | 700,241                       | 32,709             | 58,918           | 319                            | 32,047                  | 13,945                | -              | -                   | 818,200             | (27,189)             | 96.78%          |
| FS_H-Semiconductor                    | 274,910             | 146,246             | 421,156             | 223,336                       | -                  | -                | 9,765                          | -                       | 9,777                 | -              | -                   | 236,360             | (184,796)            | 56.12%          |
| FS_I-Drycleaners                      | 14,930              | 9,197               | 24,127              | 1,690                         | -                  | -                | 220                            | -                       | 39                    | -              | -                   | 1,923               | (22,204)             | 7.97%           |
| FS_K-Waste Disposal                   | 2,146,646           | 1,249,237           | 3,395,883           | 194,186                       | 114,099            | -                | 3,827                          | 10,428                  | 11,070                | -              | -                   | 322,754             | (3,073,129)          | 9.50%           |
| FS_L-Asbestos                         | 1,510,859           | 1,020,138           | 2,530,997           | 4,150,630                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 4,150,630           | 1,619,633            | 163.99%         |
| FS_N-AB 2588                          | 902,335             | 438,600             | 1,340,935           | 1,443,804                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 1,443,804           | 102,869              | 107.67%         |
| FS_P-Title V                          | 3,828,050           | 2,197,679           | 6,025,730           | 6,316,334                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 6,316,334           | 290,605              | 104.82%         |
| FS_R-Registration                     | 96,045              | 60,371              | 156,415             | 322,472                       | 1,674              | -                | 20,431                         | 11,452                  | 23,529                | -              | -                   | 360,054             | 203,639              | 230.19%         |
| FS_S-NatOccAsbBillable                | 389,205             | 237,230             | 626,435             | 113,968                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 113,968             | (512,467)            | 18.19%          |
| FS_T-GHG                              | 2,325,752           | 1,090,669           | 3,416,421           | 2,997,753                     | -                  | -                | -                              | -                       | -                     | -              | -                   | 2,997,753           | (418,668)            | 87.75%          |
| FS_V-Open Burning                     | 464,572             | 318,017             | 710,889             | 221,208                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 221,208             | (489,682)            | 31.12%          |
| FS_W-PetroleumRefiningEmissionsReport | 824,590             | 442,540             | 1,267,130           | 160,175                       | -                  | -                | -                              | -                       | -                     | -              | -                   | 160,175             | (1,106,954)          | 12.64%          |
| <b>Sum</b>                            | <b>\$39,959,438</b> | <b>\$21,899,739</b> | <b>\$61,787,476</b> | <b>\$46,857,866</b>           | <b>\$2,013,704</b> | <b>\$902,749</b> | <b>\$1,270,132</b>             | <b>\$910,439</b>        | <b>\$1,297,444</b>    | <b>\$2,153</b> | <b>\$8,157</b>      | <b>\$52,092,767</b> | <b>(\$9,694,709)</b> | <b>84.31%</b>   |



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## **ATTACHMENT**

### **2022 COST RECOVERY AND CONTAINMENT POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS**



## **COST RECOVERY AND CONTAINMENT POLICY FOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATORY PROGRAMS**

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### **PURPOSE**

WHEREAS, the Air District has the primary authority for the control of air pollution from all sources of air emissions located in the San Francisco Bay Area, other than emissions from motor vehicles, in accordance with the provisions of Health & Safety Code sections 39002 and 40000.

WHEREAS, the Air District is responsible for implementing and enforcing various Air District, State, and federal air quality regulatory requirements that apply to non-vehicular sources.

WHEREAS, the Air District's regulatory programs include but are not limited to permitting and notification programs, compliance and enforcement of permitted and registered facilities, compliance assistance at permitted and registered facilities, source testing and monitoring at permitted facilities, rule development for regulated industries, the development of the emissions inventory for permitted and registered facilities and other permit work at permitted facilities.

WHEREAS, the Air District is authorized to assess fees to regulated entities for the purpose of recovering the reasonable costs of regulatory program activities, and these authorities include those provided for in California Health and Safety Code sections 42311, 42364, and 44380.

WHEREAS, the Air District's fees fall within the categories provided in Section 1(e) of Article XIII C of the California Constitution, which indicates that charges assessed to regulated entities to recover regulatory program activity costs, and charges assessed to cover the cost of conferring a privilege or providing a service, are not taxes.

WHEREAS, the Air District has adopted, and periodically amends, a fee regulation for the purpose of recovering regulatory program activity costs, and this regulation with its various fee schedules, is used to allocate costs to fee payers in a manner which bears a fair or reasonable relationship to the payer's burden on, or benefits received from, regulatory activities.

WHEREAS, the Air District analyzes whether assessed fees result in the collection of sufficient revenue to recover the costs of related program activities; and Air District staff conduct these analyses on an annual basis, with an independent contractor review of these analyses and methodologies -conducted approximately every five years, with the most recent independent study conducted in 2022. Each fee study and cost recovery update completed revealed that District fee revenue falls short of recovering the costs of related program activities.

Adpoted December 7, 2022

WHEREAS, the Air District's most recent independent fee report (2022 Cost Recovery Report, Bay Area Air Quality Management District, May 2022) concluded that in Fiscal Year Ending (FYE) 2021, the Air District recovered approximately 83.7 percent of its fee-related activity costs (up from 65 percent in FYE 2011), resulting in an under-recovery of costs (i.e., a cost recovery gap), and a subsidy to fee payers, of approximately \$10.2 million, and that this cost recovery gap resulted despite the implementation of a number of strategies to contain costs.

WHEREAS, the Air District's Board of Directors has recognized since 1999 that the Air District's cost recovery gap has been an issue that needs to be addressed, and since that time has adopted annual fee amendments in order to increase fee revenue.

WHEREAS, the Air District's Board of Directors adopted a policy in 2012 with a goal to increase overall recovery of regulatory program activity costs to 85 percent.

WHEREAS, in addition to fee revenue, the Air District receives revenue from Bay Area counties that is derived from property taxes, and a large portion of this tax revenue has historically been used on an annual basis to fill the cost recovery gap.

WHEREAS, the tax revenue that the Air District receives varies on a year-to-year basis, and cannot necessarily be relied on to fill the cost recovery gap and also cover other Air District operational costs necessitating, in certain years, the use of reserve funds. WHEREAS, tax revenue that the Air District receives, to the extent that it is not needed to fill the cost recovery gap, can be used to fund initiatives or programs that may further the Air District's mission but that lack a dedicated funding source.

WHEREAS, it may be appropriate as a matter of policy to establish specific fee discounts for small businesses, green businesses, or other regulated entities or members of the public, where tax revenue is used to cover a portion of regulatory program activity costs, and the Air District's existing fee regulation contains several fee discounts of this type.

## **POLICY**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bay Area Air Quality Management District that:

**(1) Cost Containment** – In order to ensure that the costs of its regulatory programs remain reasonable, the Air District should continue to implement feasible cost containment measures, including the use of appropriate best management practices, without compromising the Air District's effective implementation and enforcement of applicable regulatory requirements. The Air District's annual budget documents should include a summary of cost containment measures that are being implemented.

Adpoted December 7, 2022

**(2) Analysis of Cost Recovery** – The Air District should continue to analyze the extent to which fees recover regulatory program activity costs, both on an overall basis, and at the level of individual fee schedules. An independent review of the Air District cost recovery analyses should be periodically completed by a qualified Air District contractor and should be updated on an annual basis by Air District staff using a consistent methodology.

**(3) Cost Recovery Goals** – It is the general policy of the Air District, except as otherwise noted below, that the costs of regulatory program activities be fully recovered by assessing fees to regulated entities. To move towards this goal, the Air District should amend its fee regulation over the next several years, in conjunction with the adoption of the Air District budget, in a manner sufficient to increase overall recovery of regulatory program activity costs to 100 percent. Proposed amendments to specific fee schedules should also be made in consideration of cost recovery analyses conducted at the fee schedule-level, with larger increases being adopted for the schedules that have the larger cost recovery gaps. Proposed fee amendments should include fee-recoverable work that is currently not being charged a fee. As allowed by law, any proposed regulatory measures should also propose new fees or fee amendments that are designed to recover increased regulatory program implementation costs concurrent with rule adoption, unless the Board of Directors determines that a portion of those costs should be covered by tax revenue. Tax revenue should also continue to be used to cover existing fee discounts that the Air District provides (e.g., for small businesses, green businesses, and third-party permit appeals).

BE IT FURTHER RESOLVED that this resolution is non-binding in the case of unforeseen financial circumstances, and may also be reconsidered or updated by the Air District's Board of Directors.