



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS
REGULAR MEETING
OCTOBER 17, 2012

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

**Questions About
an Agenda Item**

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

Meeting Procedures

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

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

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 AGENDA

**WEDNESDAY
OCTOBER 17, 2012
9:45 A.M.**

**BOARD ROOM
7TH FLOOR**

CALL TO ORDER

Opening Comments
Roll Call
Pledge of Allegiance

Chairperson, John Gioia
Clerk of the Boards

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

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CONSENT CALENDAR (ITEMS 1 – 4)

Staff/Phone (415) 749-

1. Minutes of the Board of Directors Special Meeting of September 10, 2012 and Regular Meeting of September 19, 2012
Clerk of the Boards

2. Board Communications Received from September 19, 2012 through October 16, 2012
J. Broadbent/5052
jbroadbent@baaqmd.gov

A list of communications directed to the Board of Directors received by the Air District from September 19, 2012 through October 16, 2012, if any, will be at each Board Member's place.

3. Air District Personnel on Out-of-State Business Travel from September 1, 2012 through September 30, 2012
J. Broadbent/5052
jbroadbent@baaqmd.gov

In accordance with Section 5.4 (b) of the Air District's Administrative Code, Fiscal Policies and Procedures Section, the Board is hereby notified that the attached memorandum lists Air District personnel who have traveled on out-of-state business.

4. Adoption of Resolution on Notification of Notices of Violations and Settlements
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will consider adopting a resolution setting forth Board of Directors' policy on staff notification of issuance and resolution of certain Notices of Violation.

COMMITTEE REPORTS AND RECOMMENDATIONS

5. Report of the **Personnel Committee** Meeting of July 23, 2012

CHAIR: B. Wagenknecht

J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee recommends the Board of Directors adopt a resolution to adjust the Deputy Air Pollution Control Officer (DAPCO) benefits to annually provide an additional week of Management Leave.

6. Report of the **Mobile Source Committee** Meeting of September 27, 2012

CHAIR: S. Haggerty

J. Broadbent/5052
jbroadbent@baaqmd.gov

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

Transportation Fund for Clean Air (TFCA) Regional Fund Policies and Evaluation Criteria for Fiscal Year Ending (FYE) 2013 and Proposed Allocations for Shuttle and Ridesharing, and Electronic Bicycle Locker Projects

1. *Approve the proposed FYE 2013 TFCA Regional Fund Policies and Evaluation Criteria (FYE 2013 TFCA Policies) presented in Attachment C, as revised by the Committee to maintain Pilot Shuttle Projects as an eligible product category;*
2. *Approve an allocation of up to \$4 million in TFCA Regional Funds for shuttle/feeder bus and regional ridesharing projects; and*
3. *Approve an allocation of up to \$400,000 for electronic bicycle lockers.*

PRESENTATION

7. Overview of the 2012/2013 Wood Smoke Reduction Program

J. Roggenkamp/4646
jroggenkamp@baaqmd.gov

Staff will provide an overview of the 2012/2013 Wood Smoke Reduction Program.

8. Work Plan for Action Items Related to Accidental Releases from Industrial Facilities

J. Broadbent/5052
jbroadbent@baaqmd.gov

Staff will provide an update on Air District's follow up activities in response to the August 6, 2012 Chevron Richmond Refinery Incident.

CLOSED SESSION

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

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

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335.

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

10. Report of the Executive Officer/APCO
11. Chairperson's Report
12. Time and Place of Next Meeting is Wednesday, November 7, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
13. Adjournment

CONTACT EXECUTIVE OFFICE - 939 ELLIS STREET SF, CA 94109

(415) 749-5130
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Executive Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.
- Any writing relating to an open session item on this Agenda that is distributed to all, or a majority of all, members of the body to which this Agenda relates shall be made available at the Air District's headquarters at 939 Ellis Street, San Francisco, CA 94109, at the time such writing is made available to all, or a majority of all, members of that body. Such writing(s) may also be posted on the Air District's website (www.baaqmd.gov) at that time.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109

(415) 771-4963

EXECUTIVE OFFICE: MONTHLY CALENDAR OF DISTRICT MEETINGS

OCTOBER 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Executive Committee (<i>Meets 3rd Monday of each Month</i>) - CANCELLED AND RESCHEDULED TO 10/22/12	Monday	15	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting (<i>Meets 1st & 3rd Wednesday of each Month</i>)	Wednesday	17	9:45 a.m.	Board Room
Board of Directors Public Outreach Committee (<i>At the Call of the Chair</i>) - CANCELLED	Thursday	18	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Executive Committee (<i>Meets 3rd Monday of each Month</i>)	Monday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee (<i>Meets the 4th Wednesday of each Month</i>)	Wednesday	24	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee (<i>Meets 4th Thursday of each Month</i>)	Thursday	25	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Public Outreach Committee (<i>At the Call of the Chair</i>)	Wednesday	31	9:30 a.m.	4 th Floor Conf. Room

NOVEMBER 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting (<i>Meets 1st & 3rd Wednesday of each Month</i>)	Wednesday	7	9:45 a.m.	Board Room
Board of Directors Personnel Committee (<i>At the Call of the Chair</i>)	Thursday	8	9:30 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting (<i>Meets 2nd Wednesday of each Month</i>)	Wednesday	14	9:00 a.m.	Board Room
Board of Directors Executive Committee (<i>Meets 3rd Monday of each Month</i>)	Monday	19	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee (<i>Meets the 3rd Monday of Every Other Month</i>)	Monday	19	10:30 a.m.	Board Room

November 2012 Calendar Continues on Next Page

NOVEMBER 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday of each Month)</i> - CANCELLED	Thursday	22	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets the 4th Wednesday of each Month)</i>	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room

DECEMBER 2012

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Special Meeting of the Board of Directors <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	5	9:45 a.m.	<u>Meeting Location:</u> Hilton Garden Inn 1800 Powell Street Emeryville, CA 94608 <u>Tour Location:</u> Pacific Steel Casting 1333 2 nd Street Berkeley, CA 94710
Board of Directors Executive Committee <i>(Meets 3rd Monday of each Month)</i>	Monday	17	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets 1st & 3rd Wednesday of each Month)</i>	Wednesday	19	9:45 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets the 4th Wednesday of each Month)</i>	Wednesday	26	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets 4th Thursday of each Month)</i>	Thursday	27	9:30 a.m.	4 th Floor Conf. Room

MM – 10/12/12 (9:43 a.m.)

P/Library/Forms/Calendar/Calendar/Moncal

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 25, 2012

Re: Minutes of the Board of Directors Special Meeting of September 10, 2012, and
Regular Meeting of September 19, 2012

RECOMMENDED ACTION

Approve attached draft minutes of the Board of Directors Special Meeting of September 10, 2012, and Regular Meeting of September 19, 2012.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Special Meeting of September 10, 2012, and Regular Meeting of September 19, 2012.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachments

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

Board of Directors Special Meeting
September 10, 2012

DRAFT MINUTES

CALL TO ORDER

Chairperson John Gioia called the meeting to order at 9:50 a.m.

ROLL CALL

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; and Directors John Avalos, Tom Bates, Susan Garner, David E. Hudson, Eric Mar, Mary Piepho, Katie Rice, Mark Ross, Brad Wagenknecht and Ken Yeager.

Absent: Secretary Nate Miley; and Directors Susan Gorin, Carole Groom, Scott Haggerty, Jennifer Hosterman, Carol L. Klatt, Liz Kniss, Edwin M. Lee, Jim Spering and Shirlee Zane.

PLEDGE OF ALLEGIANCE

Director Wagenknecht led the Pledge of Allegiance.

OPENING COMMENTS

None.

PUBLIC COMMENT ON NON-AGENDA MATTERS

Mavis Williams, Hunters View Mothers Committee for Health and Environmental Justice, addressed the Board citing a lack of agency follow up after the interagency walk through of the Bayview Hunters Point redevelopment project.

Vendell White, MAC, addressed the Board requesting immediate further action at Bayview Hunters Point.

Leaotis Martin, Hunters View Mothers and Fathers Committee for Health and Environmental Justice, addressed the Board to report some of the health issues suffered by residents of Bayview Hunters Point and to request assistance with ensuring regulatory compliance by construction crews.

Genese Hughes, Hunters View Mothers Committee for Health and Environmental Justice, addressed the Board regarding her daughter's incapacitating health condition and to request Air District

assistance and information regarding regulatory compliance by construction crews at Bayview Hunters Point.

Marie Harrison, Greenaction for Health and Environmental Justice, addressed the Board regarding her request that the Air District enforce its regulations relative to construction crews at Bayview Hunters Point and to propose as inadequate the equipment and practices currently in place.

NOTED PRESENT: Director Mar was noted present at 10:01 a.m.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), said an inspector is onsite, a Notice of Violation was issued to The John Stewart Company relative to compliance with its asbestos mitigation plan, Air District staff is working closely with the City of San Francisco regarding the health impacts mentioned today, additional site tours are planned, and suggested that staff brief the Stationary Source Committee at its meeting on September 17, 2012.

NOTED PRESENT: Director Bates was noted present at 10:04 a.m.

Chairperson Gioia approved Mr. Broadbent's suggestion to brief the Stationary Source Committee.

Director Avalos, Chairperson of the Stationary Source Committee, offered to meet with Ms. Harrison in the interim.

Director Piepho asked staff to provide her a timeline and clarification regarding what the Air District means when it issues a notice of violation as it relates to asbestos mitigation.

Director Mar thanked the residents of Bayview Hunters Point for their comments and said he looks forward to working with Director Avalos on this matter.

CONSENT CALENDAR (ITEMS 1 – 6)

- 1. Minutes of the Board of Directors Special Meeting of July 30, 2012;**
- 2. Board Communications Received from July 30, 2012, through September 9, 2012;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Quarterly Report of Executive Office and Division Activities;**
- 5. Approval of Contract for Janitorial Services; and**
- 6. Consider Approving Resolution No. 2012-05, Delegating Administrative Authority to the Executive Officer/APCO on Matters Related to the California State Association of Counties Excess Insurance Authority.**

Board Action: Chairperson Gioia tabled approval of Consent Calendar Items 1, 2, 3, 4, 5 and 6 for lack of a quorum.

PRESENTATIONS

7. Chevron Richmond Refinery Incident

Chairperson Gioia made introductory comments regarding the importance of the incident and the work that follows.

Mr. Broadbent gave the initial staff presentation Chevron Refinery Fire Overview, including roles and responsibilities and event background, and introduced Eric Stevenson, Director of Technical Services, who gave the staff presentation regarding investigation and air monitoring.

NOTED PRESENT: Director Garner was noted present at 10:19 a.m., at which time a quorum was established.

Mr. Broadbent concluded the staff presentation Chevron Refinery Fire Overview regarding next steps.

Board Comments:

Chairperson Gioia said the cost of enhanced rules may be a factor but will not be an obstacle to the Air District as it will be borne by industry.

Director Ross asked if air monitors are generally placed consistent with prevailing winds and whether they should instead ring the facility. Mr. Stevenson replied that air monitors are generally up- and down-wind with the focus on which direction most frequently prevails. Director Ross asked if the Federal Emergency Management Agency and the U.S. Department of Homeland Security should be helping here and perhaps also in developing a national model. Mr. Stevenson agreed and said the Air District has reached out to other states and regions to see what methods are being utilized.

Director Piepho asked for the identities of the first responders staff referred to in the presentation or whether the reference was instead a general one. Mr. Stevenson said it was in reference to the broader definition. Mr. Broadbent added that in this incident it was as much the Fire Department for Chevron as the County. Mr. Broadbent also point out that Contra Costa County is different than most counties because of the refineries present, and that their first responder capability is more robust than most of the Bay Area counties.

Director Piepho suggested, regarding slide 13, Air Monitoring, using the mobile air monitoring equipment for emergency responses and asked, regarding slide 15, Air Monitoring, that while the Air District must be mindful of costs it must also be mindful of community impacts and safety, whether equipment or data sharing with other agencies or local laboratories might be possible. Mr. Broadbent said that will be a possibility to consider as the Air District goes forward with its analysis. Director Piepho expressed her concern about the urgency of the matter and the time required to complete the analysis contemplated.

Director Piepho asked, referring to slide 6, Background, whether the Air District can do plume samples, perhaps with the use of a balloon. Mr. Broadbent responded that staff is researching the possibilities via balloon or drone.

Director Kalra said the technology exists if the money does and the Air District's use of new technology is essential to obtaining more precise data with the use of less equipment.

Director Garner asked if a representative from Chevron will be addressing the Board today. Chairperson Gioia responded yes, among others.

Director Bates said that monitoring is important but there needs to be some consideration of what can be done in the areas of prevention and public notification.

Chairperson Gioia said additional presentations today will address the response aspect, confirmed the Air District is working with the community and stakeholders in terms of shaping future monitoring and rulemaking efforts and echoed Director Kalra's comment about utilizing the most innovative technology available.

Chairperson Gioia introduced Randy Sawyer, Chief Environmental Health and Hazardous Materials Officer, Contra Costa County, who gave the presentation Contra Costa Hazardous Materials Program Response August 6, 2012 Chevron Fire, including an overview, response timeline, an explanation of the role of Contra Costa Hazardous Materials, plans for future coordination with the Air District and a summary of emergency room impact.

Donald Holstrum, Director Western Regional Office of Investigations, U.S. Chemical Safety Board (CSB), addressed the Board regarding the background and mission of the CSB, the reason for the agency's involvement in this incident investigation, the CSB team deployment and interview/investigation process, provided a summary of outreach efforts, detailed various areas of interest such as gauging health impacts and the communications of potential hazards, and discussed the broad-perspective approach to the overall investigation.

Chairperson Gioia said that he looks forward to receiving the CSB recommendations not only as to Chevron practices but also agency responses.

Dr. Alberto Ayala, Chief, Monitoring and Laboratory Division, California Air Resources Board (ARB), gave the presentation Air Emergencies in California: The ARB's Role for Supporting Local Responders, including ARB's emergency response program, the limits of ground-level support and looking ahead.

Daniel Meer, Assistant Director, Superfund Division, Emergency Response, Preparedness and Prevention Branch, U.S. Environmental Protection Agency (EPA), addressed the Board regarding the role of the EPA relative to the Air District generally and specific to this incident, a summary of the initiation of and process relative to the EPA's incident investigation, and the upcoming risk management audit that will occur.

Nigel Hearne, General Manager, Chevron Refinery, gave the presentation Proposed Fenceline and Community Monitoring Locations, including a map and photographic images of the same, and addressed the Board regarding company accountability and its focus on the safety of its staff and community, and the company's cooperative role in the ongoing investigation.

Chairperson Gioia asked for clarification that the locations detailed in the presentation are consistent with the City of Richmond's requested citing. Mr. Hearne said yes.

Greg Karras, Senior Scientist, Communities for a Better Environment (CBE), gave the presentation Chevron Richmond Refinery Crude Unit Fire on August 6, 2012: What We Know Now, including a comparison of reported and expected symptoms, a series of images of the smoke and vapor plumes, a diagram of a crude distillation unit, a pattern of piping problems at Chevron's crude unit, a detail of sulfur levels in crude generally and specific to the Richmond refinery, and a look at the current state of the refinery.

Mr. Karras added that monitoring is only a component of the failure, not the failure itself, and that the event was a nearly fatal disaster.

Mr. Karras asked that the Air District include incidents such as this in its emission tracking policy so as to prevent emissions increases from refineries.

Roger Lin, Staff Attorney, CBE, addressed the Board regarding the fact that the refinery equipment is destroyed and will require a rebuild if they are to continue operations, and while a focus on monitoring is important, prevention is key, and asked if the Air District will require Chevron to install state of the art equipment during the rebuild process.

Mr. Broadbent said the rebuild could possibly require a permit change and, should that be the case, Air District staff will be involved and that the best equipment will be required of the refinery and the Board of Directors will receive updates.

Chairperson Gioia clarified that today's meeting was intended to be the beginning of a dialogue rather than the final word on the incident.

Gayle McLaughlin, Mayor, City of Richmond (City), addressed the Board regarding the need for preventative measures to avoid a repeat occurrence and to address the City's air quality, 15,000 community members sought immediate medical treatment in relation to the recent incident, to emphasize the importance of finding the root cause of the incident, to encourage the utilization of both ambient and incident air monitoring, to recall for the Board that asthma has been suggested as the single largest cause of absenteeism in the community, and to urge independent thinking when working with industry partners.

Chairperson Gioia highlighted the commitment of the involved agencies to fully discover not only what has already occurred, but how best to avoid it in the future.

Director Piepho said the ARB may have the needed resources for monitoring and asked for resource sharing between them and the Air District as work is being done to improve the systems related to this incident. Dr. Ayala agreed, said that is at the heart of ARB's appearance at today's meeting and invited further discussion moving forward.

Director Ross echoed Chairperson Gioia's comments, expressed the need for utilizing the best available communications, monitoring and prevention technologies by Chevron and the agencies, and asked for greater integration of the various systems and programs already in place by the Air District and the County to provide better, more timely and informative, reports to the public.

Director Bates encouraged a focus on preventative measures, a review of the changing nature of the materials going into the refinery and the long-term safety of the facilities that results.

Director Yeager said ARB staff are looking forward to working with the Air District on issues including protocols, modeling and monitoring, and had, before this incident, already initiated a review of emergency response capabilities, the results of which will be informed by recent events.

Director Kalra asked if and how the characterization of the refinery as a new or existing facility will affect the rules and standards that will be applied by the Air District. Mr. Broadbent said the necessary

information is not yet available in terms of Chevron's rebuilding intentions but it will not have any bearing in this instance because staff will require the best equipment regardless. Director Kalra confirmed the best available technology will be required no matter how the facility is characterized. Mr. Broadbent said yes, noted the Air District's root-cause analysis requirement when there is a flare event and stated that including incidents in the overall emissions tracking and monitoring rule is a suggestion that will be considered in the initial rule making at the outset. Director Kalra thanked staff and asked that it be included or, in the event it is not, that an analysis of why be included instead. Chairperson Gioia stated that it is important to note that after the Air District's enactment of the flare management rule, several years ago, the number of flares cumulatively has gone down considerably.

Director Garner asked Air District staff if existing plume disbursement models match what was observed at the refinery incident. Jean Roggenkamp, Deputy APCO, responded that the Air District is still collecting emissions data but a comparison will be possible when collected. Mr. Broadbent added that there is a great deal to learn about the incident still, such as the central issue of how much fuel was burned, and that once staff questions have been answered, the analysis can be done relatively quickly and will be part of a report back to the Executive Committee. Director Garner said she is interested in seeing these reports and suggested modeling is integral to any discussion about future plans. Mr. Broadbent agreed but added that the modeling would be undertaken to get a better sense of what occurred and the current focus is on how best to capture an event like this in the future and to accurately inform the public in real time. Director Garner asked if the plume followed Chevron's map model. Mr. Broadbent said Air District staff will need to review the material and engage in the larger effort before providing an answer. Director Garner asked if a timeline has been established for the items shown in the Air District presentation, slide 8, Investigation. Mr. Broadbent responded that a timeline is being developed for discussion at an upcoming Executive Committee meeting and the interagency investigations will take a very long time. Chairperson Gioia interjected that the CSB is conducting the main root-cause analysis. Mr. Broadbent agreed but suggested that it too will take a while. Mr. Hearne recalled that Chevron is working under a 6-month timeline in regards to the Occupational Safety & Health Administration investigation but other agencies may extend it in the course of conducting related investigations.

Director Bates apologized for his late arrival and early departure.

Mr. Meer clarified that the EPA investigation will likely take 12 to 18 months.

Public Comments:

Letressa Alford, Senior District Representative, U.S. House of Representatives Congressman George Miller, addressed the Board to express gratitude to the Air District for opening its doors to the public, to request a full review of the incident, and to express Congressman Miller's willingness to assist.

Denny Larson, Global Community Monitor, addressed the Board regarding the need to implement modern monitoring technology and a change in practices, including greater public involvement. Chairperson Gioia asked if the agreement between Chevron and the City is a good one. Mr. Larson responded in the affirmative and suggested the community would appreciate more of the same independent-contractor operated model systems.

Evan Wade, National Association for the Advancement of Colored People, Richmond Branch, addressed the Board to request clarification regarding the location of monitors and to inquire about

seemingly delayed particulate monitoring by the Air District that occurred hours after the incident. Chairperson Gioia responded that it was delayed because it is automatic monitoring and maximizing the effectiveness of existing resources will be part of the upcoming dialogue. Mr. Stevenson said the monitoring station in San Pablo is one of three current monitoring locations in the proximity of the facility, one of which was used for the additional analyses.

Eduardo Martinez, Richmond Progressive Alliance, addressed the Board regarding the exaggerated concerns being expressed about costs at the cost of diminished concern for public health and to urge reevaluation of that equation, to suggest that any costs should be Chevron's to bear, to suggest that the Air District's and public's responsibility is setting appropriate standards for public health with an eye to the cumulative effect on the environment, to urge the requirement of 24-hour fence-line monitoring and alternative methods for dealing with high-sulfur materials, and asked if monitoring at the other refineries is able to monitor flares from Chevron. Mr. Broadbent responded that fence-line monitoring outside the Conoco facility in Rodeo is in place because of a settlement and it will likely be explored in relation to this incident and provided a summary of the flare regulation.

Chairperson Gioia said Mr. Martinez mentioned unreported flares and asked staff if this can be substantiated because he believes all flares must be reported under the Air District's regulations, the strictest in the nation. Mr. Broadbent said he is not aware of any allowable unreported flare. Wayne Kino, Acting Director of Compliance & Enforcement, said the flares are monitored at all five refineries and, along with a root cause analysis, facilities must implement prevention measures. Chairperson Gioia concluded that all flares are reported.

Dr. Henry Clark, West County Toxics Coalition, addressed the Board citing a disproportionate impact of the refinery on an already impacted community. He stated that the circumstances that enabled the incident are a violation of human rights and suggested the issue of monitor misplacement is not a new issue but only one gaining traction because of media attention, just as it did after incidents in 1993 and 2001, and if the Air District is sincere about change then now is the time to act.

Marilyn Langlois, Richmond Progressive Alliance, addressed the Board regarding the community's dependence on the Air District as their advocates, commended enhanced monitoring and increased prevention efforts, requested the strictest possible requirements be included in Chevron's refinery rebuild permit, and cited an incident in Wales as something to avoid at all costs.

Marie Harrison, Greenaction for Health & Environmental Justice, addressed the Board to request the Air District strongly consider adopting CBE's suggestions, urged 24-hour monitoring throughout the state, and suggested that community planning is a key component being left out of the current dialogue. Chairperson Gioia responded that the Board of Directors passed thresholds of significance and new California Environmental Quality Act Guidelines, deemed on the leading edge nationally, that look at housing and new sources of emissions, impose much more stringent requirements for citing analysis, and look at housing and cumulative impacts, which resulted in the Air District being sued by the California Building Industry Association, a case the Air District is currently fighting on appeal. Ms. Harrison thanked the Board of Directors and encouraged continued work.

Guadalupe Corral addressed the Board, with the assistance of an interpreter, regarding the absence of a Spanish language emergency call despite a recent census showing that 30% of the community population is Spanish-speaking. Ms. Corral indicated that she did not hear mention of the Iron Triangle in the news, told of the recent creation of a community garden that users are now afraid to

harvest from, her concern about the delayed sounding of the alarm, and requested enhanced information sharing with schools. Chairperson Gioia said these questions would be answered.

Tracy Reed, Resources for Human Development, addressed the Board regarding this incident bringing to light existing disparities in health-care delivery and the need for change, to inquire what the follow-up plan is for those affected by the incident and to remind the Air District that even with health insurance the cost of co-payments and related health-care expenses can limit access for her and others.

Wafaa Aborashed, Bay Area Environmental Health Collaborative (BAEHC), addressed the Board regarding the response being the result of a collaboration of the involved agencies, the failure of the federal government to cut through the layers of bureaucracy that result, and to criticize the lack of a comprehensive and cumulative monitoring system.

Yolanda Lewis, Chief Deputy, Black Economic Council, addressed the Board regarding the inadequacy of industry best practices if this incident was possible while they are allegedly in place and being complied with. She stated that more effective mitigation technology exists but is not in place because its proponents cannot find an audience. She suggested that if safety is good business, as Chevron says is the case, then it is time to step up efforts, and to issue an invitation to the Black Economic Council's event on October 16, 2012, at the Oakland Marriott to discuss the best available technology and solutions.

Chairperson Gioia made closing remarks.

Mr. Broadbent said the City of Richmond is conducting a public meeting tomorrow night on the same topic and Air District staff will be in attendance.

Board Action: None; informational only.

8. **Bureau of State Audits Report on the Metropolitan Transportation Commission (MTC) Acquisition of 390 Main Street:** Postponed to the next meeting.
9. **Production System Project Update:** Postponed to the next meeting.
10. **EXISTING LITIGATION (Government Code Section 54956.9(a)):** Postponed to the next meeting.

PUBLIC COMMENT ON NON-AGENDA MATTERS

None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

11. **Report of the Executive Officer/APCO:** None.
12. **Chairperson's Report:** None.

13. **Time and Place of Next Meeting:** Wednesday, September 19, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
14. **Adjournment:** The Board of Directors meeting adjourned at 12:46 p.m.

Sean Gallagher
Clerk of the Boards

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

Board of Directors Regular Meeting
September 19, 2012

DRAFT MINUTES

CALL TO ORDER

Chairperson John Gioia called the meeting to order at 9:50 a.m.

ROLL CALL

Present: Chairperson John Gioia; Vice Chairperson Ash Kalra; and Directors John Avalos, Tom Bates, Susan Garner, Susan Gorin, Carole Groom, Scott Haggerty, Jennifer Hosterman, David E. Hudson, Carol L. Klatt, Liz Kniss, Eric Mar, Katie Rice, Mark Ross, Brad Wagenknecht, Ken Yeager and Shirlee Zane.

Absent: Secretary Nate Miley; and Directors Edwin M. Lee, Mary Piepho and Jim Spering.

PLEDGE OF ALLEGIANCE

Chairperson Gioia led the Pledge of Allegiance.

OPENING COMMENTS

None.

PUBLIC COMMENT ON NON-AGENDA MATTERS

None.

CONSENT CALENDAR (ITEMS 1 – 7)

- 1. Minutes of the Board of Directors Special Meeting of July 30, 2012;**
- 2. Board Communications Received from July 30, 2012, through September 18, 2012;**
- 3. Air District Personnel on Out-of-State Business Travel;**
- 4. Quarterly Report of Executive Office and Division Activities;**
- 5. Approval of Contract for Janitorial Services;**
- 6. Consider Adopting Resolution No. 2012-05, Delegating Administrative Authority to the Executive Officer/Air Pollution Control Officer (APCO) on Matters Related to the California State Association of Counties Excess Insurance Authority; and**

7. Set Public Hearing for November 7, 2012, to Consider Adoption of Proposed Air District Regulation 2: Permits, Rule 1: General Requirements, Rule 2: New Source Review, Rule 4: Emissions Banking, and Rule 6: Major Facility Review and Adoption of an Environmental Impact Report Pursuant to the California Environmental Quality Act.

Board Comments: None.

Public Comments: None.

Board Action: Director Haggerty made a motion to approve Consent Calendar Items 1, 2, 3, 4, 5, 6 and 7; Director Hudson seconded; the motion was unanimously approved without objection.

COMMITTEE REPORTS AND RECOMMENDATIONS

8. Report of the Personnel Committee Meeting of July 23, 2012
Chairperson B. Wagenknecht

The Committee met on Monday, July 23, 2012, and reviewed, discussed and considered adjustments to the Deputy Air Pollution Control Officer (DAPCO) benefits based on salary reviews conducted by the Executive Officer/Air Pollution Control Officer (APCO). The Committee was precluded, under the Brown Act, from making a recommendation for approval on this item at the Board of Directors Special Meetings on July 30, 2012, or September 10, 2012. The Committee recommends the Board of Directors approve adjustments to the DAPCO benefits to annually provide an additional week of Management Leave.

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

Board Action: Director Wagenknecht made a motion to approve the report and recommendation of the Personnel Committee; Director Hosterman seconded.

Public Comments:

Will Saltz, BAAQMD Employees' Association (EA), addressed the Board in opposition to the proposed adjustment.

Board Comments:

Chairperson Gioia asked how many employees the adjustment applies to, what their current management leave is, and the estimated total cost of the benefit. Jack Broadbent, Executive Officer/APCO, responded that the proposal was brought before the Personnel Committee in late July and would affect two employees, the DAPCOs, and is the latest of a number of proposals over the years based on a concern that the DAPCO salaries fall behind those in similar positions in similar agencies. Mr. Broadbent recollected that the current management leave is 64 hours each and clarified that only an increase in management leave is recommended today, no increases in salary or retirement. Chairperson Gioia clarified that the proposal would result in an additional 40 hours leave per year for each employee and asked the total cost. Mr. Broadbent said the total cost is approximately \$7,300 and that it is his responsibility to ensure the Board periodically reviews salaries and makes necessary adjustments and believes this proposal falls considerably short of amending an increasingly disparate

situation but is in keeping with the comments received from the Personnel Committee. Mr. Broadbent noted that reviews and adjustments of the salaries of various positions have been conducted during his years here and suggested the EA can affirm that these reviews have included represented employees.

NOTED PRESENT: Director Yeager was noted present at 10:01 a.m.

Director Wagenknecht said the matter has been brought to and deferred by the Personnel Committee a number of times and the current solution was approved by the same in July.

Director Avalos asked if the leaves are traditionally used each year and what are they used for. Mr. Broadbent said it is an additional benefit provided to management whose use depends on the individual, a portion of which can be cashed out. Director Avalos likened it to a floating holiday. Mr. Broadbent agreed, adding that it expires at the end of each year. Director Avalos asked if they are taken year after year. Mr. Broadbent said it depends on the individual as a number have let their leave expire.

Chairperson Gioia asked how much is eligible for cash out. Mr. Broadbent said that what is not used can be cashed out.

Director Haggerty said the two affected individuals work very hard and he has a tremendous amount of respect for them but asked how much vacation time each of them currently enjoy. Mr. Bunker responded that it varies by tenure. Director Haggerty asked if we can be specific since there are only two employees. Mr. Bunker said he does not know how long each has been employed. Director Haggerty asked if it safe to assume they are at four or five weeks per year. Chairperson Gioia asked if it would be useful to have the full range of benefits and leave. Director Haggerty said yes and to have comparisons as well, noting that staff at Alameda County have gone without a salary adjustment for four years and asked if he recalled correctly that EA-represented staff recently received an increase. Mr. Broadbent said yes, each employee is beginning to pay a portion of their retirement, stretched over a three-year period, which was balanced by a cost of living adjustment of 2% per year.

NOTED PRESENT: Director Mar was noted present at 10:06 a.m. and Directors Garner and Kniss was noted present at 10:07 a.m.

Chairperson Gioia suggested the matter go back to the Personnel Committee with a request for staff to provide salary information and a total list of benefits in order to provide full context. Director Rice recalled the Personnel Committee's work on this matter, which included review of a great number of facts and figures, followed by a lengthy discussion, and suggested that today's recommendation represents a compromise. Director Rice added that although additional information is good, today's proposal only brings the affected employees part-way to a commensurate level of pay with their peers, that they had not enjoyed a raise for several years and today's proposal seems fair in regards to the EA, and doubted the value of sending additional information to the Personnel Committee as opposed to the full Board.

Chairperson Gioia suggested that the information instead be provided to the Board.

Director Bates suggested the matter be continued to the next Board meeting.

Director Hudson said the Personnel Committee had the relevant information and some members thought it best to begin incremental increases now while some disagreed, so today's recommendation is the result of that compromise. Director Hudson agreed with continuing the matter for further Board consideration if that is the Board's preference.

Director Kalra said he would agree to continue the matter or approve the adjustment today, noting that this is the very reason for committees, so they can do the vetting, but if there are questions then members have every right to have them answered first and recalled that the terms of the recent EA agreement were a draw for staff and urged a full review of salaries and benefits on an agency-wide basis as the economic forecast begins to brighten.

Board Action: The motion was postponed to the next meeting by Chairperson Gioia.

9. Report of the Stationary Source Committee Meeting of September 17, 2012
Chairperson J. Avalos

The Committee met on Monday, September 17, 2012, and approved the minutes of March 19, 2012.

The Committee received an update on Proposed Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic Air Contaminants from Portland Cement Manufacturing, including background on the cement manufacturing industry and recent regulatory developments, a description of the elements of the proposed rule, a summary of estimated emission reductions and costs, and review of the rule-making and public participation processes. Adoption of this proposed rule is included as item number 11 for consideration by the Board of Directors at today's meeting.

The Committee received a status report on the Hunters View Redevelopment Project, including background, an overview of naturally occurring asbestos regulatory requirements, a summary of inspection and enforcement efforts by the Air District, work done with residents and other involved agencies, and lastly, the next steps. Members of the Hunters View community attended the meeting and addressed the Committee, expressing their concerns and requests for help with dust and health-related issues. The Committee directed staff to explore further dust mitigation at the site and to ensure that the contact information for the involved agencies is made available to interested residents.

The Committee received a report on Proposed Amendments to Regulation 2, Rules 1, 2, 4 and 6: New Source Review and Title V Permitting Programs, including a summary of New Source Review and Title V Permitting Programs, recent regulatory developments, proposed amendments, the public participation process and significant issues raised in public comments, and next steps.

The next meeting of the Committee is Monday, November 19, 2012, at 10:30 a.m.

Board Comments: None.

Public Comments: None.

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

PUBLIC HEARING

10. Public Hearing to Consider Adoption of Proposed Regulation 9: Inorganic Gaseous Pollutants, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic Air Contaminants from Portland Cement Manufacturing; and Adoption of a Negative Declaration Pursuant to the California Environmental Quality Act

Mr. Broadbent made introductory remarks regarding the subject matter and introduced Robert Cave, Senior Air Quality Specialist, Planning, Rules & Research, who gave the staff presentation Proposed Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter, and Toxic Air Contaminants from Portland Cement Manufacturing, including background on the cement manufacturing industry and recent regulatory developments, a description of the elements of the proposed rule, a summary of estimated emission reductions and costs, a review of the rule-making and public participation processes, and staff recommendations.

Director Bates asked, regarding slide 5, Comparison of Standards, which standard applies to the Lehigh facility. Mr. Cave said the Existing Facilities standard. Chairperson Gioia asked what happens if there are modifications in the future. Mr. Cave said that if they have modifications in the future that exceed half the cost of a new facility then it would be deemed a modified facility and be subject to the stricter standards.

Director Zane said she would like to hear more about the health risk assessment and asked why the Air District is applying the Existing Facilities standards when those for New/Modified Facilities are stricter. Mr. Cave responded that the standards for New/Modified Facilities are for new, ground-up construction or those undergoing a significant modification and the costs of applying the mitigation measures in these instances is much lower than for existing facilities and if today's proposal were not approved the Federal Standard would apply. The Board and staff discussed the columns in slide 5, Comparison of Standards. Director Zane said she understood but that she sees her responsibility as making sure these facilities pollute less and it remains unclear why the Air District is granting them the Existing Facilities standards rather than those for New/Modified Facilities. Mr. Cave clarified that today's proposal is represented by the column entitled District Proposed Standard. Chairperson Gioia clarified that the Air District standard is stricter than the federal standards for existing facilities. Director Zane asked if the Air District is letting Lehigh off the hook. Jean Roggenkamp, Deputy APCO, said that Lehigh is an Existing Facility that is not being designed but exists as we speak, so compliance will require making changes to the facility that is already there. Chairperson Gioia clarified that the proposed Air District standard meets or improves upon the federal standard. Director Zane asked when it was built. Mr. Cave said it goes back to the 1930s and the most recent modifications were in the 1980s. Director Zane asked if there have been any modifications since the 1980s. Mr. Bunger said the basic structures of the existing kilns were built in the 1980s. Director Zane asked whether the Air District existed in the 1980s. Chairperson Gioia responded that the Air District as an institution has existed much longer than that.

Mr. Cave continued the presentation.

Director Zane asked, regarding slide 7, Control Costs, for the meaning of "dollars per ton of nitrous oxides (NO_x) reduced." Mr. Cave said that is industry's cost for controlling a ton of NO_x, in this case \$1,800. Director Zane asked the annual impact of the cost. Mr. Cave said it far exceeds the normally acceptable 10% of profits but he would have to look in the staff report to provide the exact figure and

noted it is a significant impact to the facility. Director Zane cited the \$1.7 million annual compliance cost and asked what the \$1,800 per ton equates to annually in terms of offsetting that compliance cost. Mr. Cave said the numbers represent two different ways of measuring cost, with the dollars per ton figure representing the cost of all of the control equipment divided by the tons of emissions that are reduced, and the socio-economic impact figure is found by comparing costs against profitability of the facility, and that latter figure is the one that is well over 10%.

Director Hosterman noted, regarding slide 6, Emissions and Emissions Reductions, there does not appear to be a significant improvement and asked if staff have a forecast in regards to changes in concern about public health relative to the anticipated reduction in emissions. Mr. Cave said that would be addressed later in the presentation and noted that the middle column is current emissions and the right column is the amount of emissions reduction, not the anticipated emissions after reduction. Director Hosterman said she understood but cited the particulate matter (PM) reduction as de minimis. Mr. Cave said PM emissions at the Lehigh facility are already significantly controlled and the control equipment in place is of the highest level.

Director Rice asked for the meaning of "fugitive dust." Mr. Cave responded that it is dust coming from equipment that is not a recognized emission point, such as from vehicle travel or stock piling of materials. Director Rice asked if staff's presentation will address the measures put in place to address fugitive dust. Mr. Cave said it was not covered extensively but the mitigation methods were drawn from the Title V permit and elements of that plan were inserted into the rule to increase the enforceability of those provisions. Director Rice asked if fugitive dust is captured in the PM figures. Mr. Cave responded that it is not as it is very difficult to quantify fugitive dust emissions, so all of the stated reductions are only in reference to the main processing kiln, clinker cooler and preheating tower. Director Rice asked if the rule addresses the movement of equipment that will generate fugitive dust. Mr. Cave said it does and it sets a stricter standard of a 10% opacity limit from those operations, down from 20%, a change modeled after a facility in the South Coast Air Quality Management District that was dealing with hexavalent chromium issues.

Director Garner clarified, regarding slide 5, Comparison of Standards, that the federal standard for mercury at New/Modified Facilities is roughly half the amount of emissions allowed for an Existing Facility. Mr. Cave said yes, but the federal standard for Existing Facilities, 55 pounds per million tons of clinker, is a significant reduction from what Lehigh was emitting previously. Mr. Cave added that 21 pounds per million tons of clinker for a New/Modified Facility is extremely low, measuring that standard with a continuous emissions monitor may pose technical problems, and it is an unattainable level unless a facility is located on a source of limestone with low enough mercury content to meet the standard. Director Garner asked if staff is saying that the New/Modified Facilities standard is unachievable by Lehigh. Mr. Cave speculated that it probably is not achievable, at least not without even more significant cost, but it has not been explored by staff. Director Garner said the Lehigh facility is located in a very densely populated area and mercury is a constituent of concern which accumulates in the body, and suggested the Air District needs to explore whether the lower standard is a level that can be achieved and at what cost, and suggested the U.S. Environmental Protection Agency (EPA) would be aware of and sensitive to measurement issues before setting standards. Mr. Cave said the siting of a new facility makes all the difference. Mr. Broadbent said this is a very important issue and the Air District has heard inquiries as to why it is not applying this more stringent standard, and having reviewed it at length, staff believe today's proposal is what is practical, cost effective, and possible in this circumstance and suggested the Air District should continue to look at this matter but it is important for the Board to lock in the improved standards today so that significant

reductions are put in place and there is no reason not to revisit the matter later for future modifications. Director Garner asked what the timeframe would be on the review. Mr. Broadbent said an in-depth review would be reported to the Stationary Source Committee in the first quarter of calendar year 2013.

Director Kalra noted that staff suggested the New/Modified Facility standards are scientifically unattainable without siting the facility elsewhere but suggested an additional column be added to slide 5, Comparison of Standards, that would contain what, if any, regulations exist in each category. Mr. Cave responded that all of the Air District standards are new and provided here with the exception of dioxin/furans because they are in the National Emission Standards for Hazardous Air Pollutants (NESHAP) currently and have not changed with the recent amendments. Director Kalra asked for confirmation that the mercury level after reduction is expected to be 0.05 pounds per day. Mr. Cave confirmed. Director Kalra said the Air District will continue to look at possible reductions that are feasible, economically and in terms of monitoring, as well as good for the public health. Mr. Cave said the federal regulations are not finalized and there may be significant comment that relaxes the mercury standard for New Facilities so it may not be an appropriate benchmark despite being all there is at this time. Mr. Broadbent agreed, said the EPA continues to move back the proposed standard based on discussions in Washington, D.C., and staff feel today's proposal represents a good standard that will significantly reduce mercury, and agreed that while it is not the same as the New Facility standard, building from the ground up means you are dealing with a very different creature, and clarified the existence of two standards is not unique to this regulation as it is difficult to go back and retrofit existing facilities. Director Zane said she understands and respects pragmatism but gets nervous when the conversation includes statements about what is cost effective for this company and suggested the Board is charged with looking at what is cost effective for their constituents in terms of health risk and that the Air District may not be asking for enough because it is not the Board's job to protect the cost-effectiveness of the company.

Mr. Cave concluded the presentation.

Board Comments:

Director Hosterman said she has yet to hear information regarding an anticipated difference in the health forecast for the surrounding population as a result of the proposed regulations, echoed Director Zane's comments, and suggested it may be time for the Board to tell Lehigh to figure out how to operate without harming the surrounding community.

Director Bates asked, regarding slide 6, Emissions and Emissions Reductions, if readers are supposed to subtract the right column from the middle to determine the estimated emissions. Mr. Cave said yes. Director Bates asked for confirmation that mercury is substantially eliminated. Mr. Cave agreed. Director Bates asked for confirmation that benzene is substantially eliminated and asked if those are the source of the major health problems. Mr. Cave said yes. Mr. Bates suggested these are major steps forward and the Board should take that into account, and asked when the facility and homes were built. Mr. Cave said the facility was built in the 1930s and the homes were surely built sometime after that. Director Bates said since the facility was there first and the homes second, residents must have known and accept a certain health risk, just as they would moving in near a freeway. Director Bates said the proposal is a substantial improvement that should not be lost because it is seen as imperfect and as technology improves so too will the regulations. Director Bates likened the Lehigh facility to

the Pacific Steel Casting plant in his community and said it is unreasonable to close a facility that is meeting the health standards, as they have a right to be there as well.

Chairperson Gioia asked if the pounds of mercury per day will be reduced from 0.72 to 0.05. Mr. Broadbent said yes. Chairperson Gioia asked when this change would be achieved. Mr. Broadbent said some of the equipment is installed already. Mr. Cave said it would be achieved by 2013. Chairperson Gioia confirmed the same equation for benzene and suggested the reductions are substantial.

Director Ross echoed Chairperson Gioia's comment and asked, regarding slide 5, Comparison of Standards, if the 55 pounds of mercury emissions per million tons of clinker is what is remaining or will be the starting figure that will decrease. Mr. Cave said 55 pounds is a standard but the actual emissions are tied into the production rate of the facility and the total will represent a 90% reduction. Director Ross asked how many pounds per day of mercury is likely after the standards are in place. Mr. Cave said 0.05 pounds per day after controls. Discussion ensued regarding the total annual figure and Mr. Cave clarified in the end that it would be 18 pounds per year.

Director Kniss said she is anxious to hear public comments and speculated that a representative from Lehigh is among them. Mr. Broadbent said they are not present but staff worked closely with Lehigh representatives on this proposal. Director Kniss suggested that staff say a little more about that work as this issue has been a long-standing issue involving a great number of private and public meetings, many hours of work, with the involvement of various local governments, agencies and groups, and has resulted in what seems like a well vetted process.

Public Comments:

Cynthia Hayes-Rupp, Bay Area for Clean Environment (BACE), addressed the Board in opposition with a request for stricter standards.

Gary Latshaw, Sierra Club, Loma Prieta Chapter Air Quality Chair, submitted written material and addressed the Board in opposition with a request for stricter standards.

Terri Hoonstra, BACE, submitted written material and addressed the Board in opposition with a request for stricter standards.

Tim Brand, BACE, submitted written material and addressed the Board in opposition with a request for stricter standards.

Gary Waldeck, Vice Mayor of Los Altos Hills (City), addressed the Board in opposition with a request for stricter standards. Director Kniss recalled the City hired an independent consultant and asked about the outcome. Vice Mayor Waldeck said they concluded there was no health risk beyond that being reported by the Air District but added that the City continues to receive public reports of pollution that is fallout from the facility, there is no way to measure it and suggested alternative air monitor locations. Director Kniss said staff needs to address issues regarding monitor placement and thanked him for his report from the independent consultant. Director Bates asked Vice Mayor Waldeck to clarify. Vice Mayor Waldeck repeated himself regarding alternative air monitor locations. Director Bates asked for the identity of the consultant and the outcome of their evaluation. Vice Mayor Waldeck said they hired Iris Engineering who sampled water and soil but air quality data came

from the Air District, and found nothing of substance in the two water samples or air samples that indicated a health risk in relation to the standards currently in place.

Rod Sinks, City of Cupertino Council Member and personally, submitted written material and addressed the Board in opposition with a request for stricter standards, particularly in light of the Lehigh facility's location in the Silicon Valley. Chairperson Gioia said all regions deserve equal treatment regardless of the economic status of the residents. Council Member Sinks clarified that he is referring to Silicon Valley in terms of its economic contribution and the sizable population.

Paula Wallis addressed the Board in opposition with a request for stricter standards under the New/Modified Facility classification. Chairperson Gioia suggested the point Mr. Broadbent was making in his characterization of New/Modified Facilities as being built from the ground up was in reference to the federal standards that would be applied if the Air District regulations did not exist. Chairperson Gioia clarified that these are federal laws, not Air District laws, as is the classification of facilities as existing, new or modified. Mr. Broadbent agreed. Director Garner asked the difference between Lehigh and a Modified Facility. Mr. Bunker said there are a set of federal guidelines that apply to determining what constitutes a modification, fundamental among them is a rebuild has to cost at least 50% of the cost of a new facility of that type. Mr. Broadbent clarified that the work done in the 1980s does not fit the classification. Mr. Cave said that regardless of the classification, the facility met the standards of the day and today's standards cannot be retroactively applied to previously modified facilities. Mr. Bunker clarified that the modified standards are not actually in effect but remain a proposal only.

Bill Almon, Quarry No, submitted written material and addressed the Board in opposition with a request for stricter standards.

Karen Del Compare addressed the Board in opposition with a request for stricter standards.

Andy Katz, Breathe California, addressed the Board in support with a request for further review of the standards for additional improvements in the near term.

Cathy Helgerson, Citizens Against Pollution, submitted written material and samples and addressed the Board in opposition with a request for stricter standards or that the Lehigh facility be closed.

Barry Chang, BACE, addressed the Board in opposition with a request for stricter standards.

Director Kalra said the reality is that who arrived in the community first and who lives there now is not relevant, air quality technology has improved so much that no one can deny, not even Lehigh, that the use of modern add-on controls is appropriate; suggested the federal guidelines in terms of monitoring has not caught up to technology and the Air District is trying to implement the best available and will continue to do so in the future to the extent federal law allows it; clarified that the standards proposed today go beyond those for Existing Facilities and they need to given the location of the facility in a population center; said the fact is that the Lehigh stack configuration will have to change from its current form in order for the facility to comply with the standards the Air District is setting, thereby almost guaranteeing a single stack will be installed; noted that the PM standards provide for lower emissions than federal standards despite not reaching the proposed New/Modified Facility standards and are an improvement nonetheless; said mercury will see a dramatic reduction and an effective date of next year, not 2015, so these standards will be in place by the time the Board

comes back to this matter; shared his appreciation for Mr. Katz's comment because the Air District cannot stop looking at the issue but today will represent a missed opportunity if the standards are not approved as they are a drastic improvement, even if they are not enough; noted the resolution includes a provision regarding the Air District's return to this issue; suggested that today's progress is because of the contributions of the public, local officials, and various organizations and those contributions are the very reason the District will continue to apply the most stringent possible standards; and asked staff to review and report back on Dr. Latshaw's recommendations.

Board Action: Director Kalra made a motion to approve staff's proposed amendments to District Regulation 9: Inorganic Gaseous Pollutants, Rule 13: Nitrogen Oxides, Particulate Matter and Toxic Air Contaminants from Portland Cement Manufacturing; and to adopt a Negative Declaration Pursuant to the California Environmental Quality Act; Director Hudson seconded.

Director Yeager expressed his support for the motion and asked what the legal timeframe is for the rule to take effect and why time is lost if the proposal is not approved today. Mr. Broadbent said some public comments suggested Air District staff should start over with more stringent standards and staff disagree, that starting over the technical work would take a year, and staff feels this is a good proposal that locks in the NESHAP standard and goes further in bringing down a variety of emissions. Director Yeager expressed his agreement with Mr. Broadbent, explained his desire to put today's proposal in place and continue moving forward, and explained his curiosity about possible legal reasons for time lost, if any. Mr. Broadbent said staff built in the rule a future-effective compliance date, partly because the facility will require modification and that takes time, reported that staff and Lehigh have developed a schedule for improvements and Lehigh continues to request more time and staff continue to refuse. Mr. Bunger said the rule is effective immediately with a compliance date in 2013 and noted that federal changes generally have a two-year delay in effectiveness. Director Yeager asked if changes were made, would staff have to conduct the entire rule making process again. Mr. Broadbent said yes and today's proposal is significant such that Lehigh will have to spend somewhere between \$27 and 32 million to come into compliance with NESHAP, along with another \$8.5 million in capital costs and another \$4 million annually to meet the Air District's additional requirements.

Director Garner said this matter concerns her community, she feels a personal commitment so public comments are not lost on her, and she is concerned about the negative public perception about the Air District not going far enough. Director Garner added that she pleased with the expected reductions of serious pollutants but asked why sulfur dioxide (SO₂) is not in the balance. Mr. Broadbent responded that the ambient air quality of the region is in compliance with the SO₂ standard by a significant margin and staff must tailor its work to where needs exist. Director Garner asked if staff can include figures instead of hyphens for SO₂ in future presentations. Mr. Broadbent said yes. Director Garner expressed her appreciation for Mr. Katz's comments regarding reducing now and revisiting for additional improvements and asked if staff is evaluating its monitoring efforts as it seems the proper level is not being achieved. Mr. Broadbent said staff does not agree with that characterization but regardless, will be looking at other possible locations for additional monitoring as the facility implements these controls. Mr. Stevenson said it is important to recognize that meteorological conditions are also being measured at the site and those data suggest the wind blows just as often from the north as from the south, the location seems to be a good one that provides for the effective capture of emissions from the plant, and cutting edge methods are being utilized in the analysis. Director Garner asked staff to consider moving the monitor to one or more locations to put Board and public concerns to rest. Mr. Broadbent said staff would likely be moving this monitor to address other needs in the Bay Area and then put in place additional monitors to address the concerns raised, a topic that

will be included in the report after further review. Director Garner asked if the movement of the monitor is a decision that will come before the Board. Mr. Broadbent said he has directed staff to leave it in place for the time being but equipment is limited. Director Garner asked when staff is planning to move it. Mr. Broadbent said the thought was to move it in about six months, so anticipated that it can be included in the review.

Chairperson Gioia conducted a time check.

Director Garner asked staff to evaluate the cost for the Lehigh facility to comply with New/Modified Standards instead of those for Existing Facilities, for the benefit of both the Stationary Source Committee and the public, and expressed her support for the motion.

Director Wagenknecht expressed his support for the motion, said this issue is about monitoring and said it would be helpful to have a full overview of the Air District monitoring program.

Director Groom said she is not clear why the Air District cannot wait a couple months in order to achieve stricter standards and asked for an explanation. Mr. Broadbent said that today's proposal includes very stringent standards and staff strongly recommends that the Board approve it today, staff looked at the New Source Pollution Standards (NSPS) and believes there are elements to draw from to create additional requirements but that it does not make sense to recommend those today because a very stringent proposal, that goes extremely far, is before the Board. Mr. Broadbent added that he is concerned the NSPS requirements may not be put into place by the EPA. Director Groom said she did not see anything in the proposal about the imposition of penalties on Lehigh for failure to perform. Mr. Broadbent said all Air District penalties are established by state law so there is a \$25,000 per day ceiling. Mr. Bunker said the penalties will depend on the facts relating to the violation. Director Groom asked if the Air District will have strict enforcement because what the public seems to be saying is that the Air District does good work but Lehigh continues to disobey the rules and regulations. Mr. Broadbent reluctantly likened the Lehigh facility to a petroleum refinery, as it is also a Title V major source in the Bay Area, so there is an inspector on site practically every day and staff has written tickets on this facility in the course of its rigorous enforcement relative to this facility. Mr. Bunker said the requirements on stack monitoring will make enforcement much more direct, so the current monitoring difficulties will be alleviated. Mr. Broadbent said there are 32 stacks currently and there will be one or two in the future, according to Lehigh. Mr. Broadbent added that the Air District is not explicitly requiring a certain number of stacks but is imposing requirements that will make it easier for the Air District to monitor emissions.

Director Zane said it is important to defer to representatives in the facility's community and echoed Director Wagenknecht's request for a full report to the Board regarding an overview of the Air District monitoring system, as monitoring and enforcement are the critical issues.

Director Gorin agreed with Director Zane and asked if the costs of Lehigh's significant improvements in order to comply with the standards proposed today could be used as a later argument by Lehigh against the imposition of future modifications because of their cost-prohibitive nature. Mr. Broadbent said Lehigh may very well make that point to staff but if the rule is approved today, Lehigh will be on a path with a future-effective date and must start putting the resources together to come into compliance and he would prefer a conversation with Lehigh about future modifications to occur separately. Director Gorin clarified that they will be investing over \$30 million and could conceivably

understand their coming back with that argument. Mr. Broadbent said he believes there may be additional modifications possible to augment what they are already putting in place.

Director Kniss expressed her support of the motion, said the Air District is not the only agency monitoring the Lehigh facility, disagreed with assessments that the air monitoring is antiquated, recalled that this matter has been in process for five years with abundant review and scrutiny, and suggested that although it may not be a perfect solution, it is a very good one.

Board Action: The motion was unanimously approved without objection.

PRESENTATION

11. Bureau of State Audits Report on the Metropolitan Transportation Commission (MTC) Acquisition of 390 Main Street

Mr. Broadbent introduced Jeffrey McKay, DAPCO, who gave the staff presentation Bureau of State Audits Report on Metropolitan Transportation Commission Use of Toll Funds for Purchase of 390 Main Street, including purchase background, a summary of the state audit and next steps.

Board Comments: None.

Public Comments: None.

Board Action: None; informational only.

CLOSED SESSION

The Board of Directors adjourned to Closed Session at 12:18 p.m.

12. EXISTING LITIGATION (Government Code Section 54956.9(a))

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

California Building Industry Association v. Bay Area AQMD, Alameda County Superior Court, Case No. RG-10548693; California Court of Appeal, First Appellate District, Case No. A135335.

OPEN SESSION

The Board of Directors resumed Open Session at 12:24 p.m. with no reportable action.

PUBLIC COMMENT ON NON-AGENDA MATTERS

None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

13. **Report of the Executive Officer/APCO:** None.
14. **Chairperson's Report:** The Board of Directors Regular Meeting on October 3, 2012, is cancelled.
15. **Time and Place of Next Meeting:** Wednesday, October 17, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
16. **Adjournment:** The Board of Directors meeting adjourned at 12:24 p.m.

Sean Gallagher
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 5, 2012

Re: Board Communications Received from September 19, 2012 through October 16, 2012

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

A list of communications directed to the Board of Directors received by the Air District from September 19, 2012 through October 16, 2012 if any, will be at each Board Member's place at the October 17, 2012 Regular Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Maricela Martinez
Reviewed by: Ana Sandoval

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chair John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 25, 2012

Re: Air District Personnel on Out-of-State Business Travel from September 1, 2012
through September 30, 2012

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

In accordance with Section 5.4 (b) of the District's Administrative Code, Fiscal Policies and Procedures Section, the Board of Directors is hereby notified that the following Air District personnel listed below have traveled out-of-state on business:

The report covers the out-of-state business travel for the period September 1, 2012 through September 30, 2012. Out-of-state travel is reported in the month following travel completion.

DISCUSSION

Jack Broadbent, Executive Officer/APCO, invitation by the China Sustainable Energy Program of the Energy Foundation to participate as a presenter in the international workshop on NOx total control in KunMing, China, September 22, 2012 through September 28, 2012.

Brian Bateman, Health and Science Officer, invitation by the China Sustainable Energy Program of the Energy Foundation to participate as a presenter in the international workshop on NOx total control in KunMing, China, September 22, 2012 through September 28, 2012.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

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

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 12, 2012

Re: Adoption of Resolution on Notices of Violations and Settlements

RECOMMENDED ACTION

Adopt attached resolution setting forth Board of Directors' policy on staff notification of issuance and resolution of certain Notices of Violation.

BACKGROUND

California law gives the Air Pollution Control Officer the responsibility and authority to enforce Air District regulations and certain state laws relative to air pollution in the Air District's geographical jurisdiction. The Air Pollution Control Officer oversees Air District staff performing this enforcement role. The Air District typically initiates civil enforcement actions through issuance of Notices of Violation. Many such Notices of Violation are resolved through settlements.

In its role as the legislative body overseeing the Air District, the Board is informed of enforcement activities undertaken by the Air District's staff. Presently, a report of all Notices of Violation issued and resolved is provided on a quarterly basis to the Board of Directors. In order to provide more frequent and detailed reporting, the Chairman of the Board of Directors has requested that in addition to the existing quarterly reporting, issuance of all Notices of Violation and resolution of certain Notices of Violation be reported to the Board of Directors on a monthly basis.

DISCUSSION

In order to respond to the request of the Chairman, staff has prepared the attached resolution setting forth the Board of Directors' policy that issuance of all Notices of Violation, and resolution of all Notices of Violation for an amount \$10,000 or greater be reported to the Board on a monthly basis. The resolution specifies certain information that will be contained in such reports, including the nature of the violation(s) alleged in a Notice of Violation and a description of the violation(s) involved in Notices of Violation resolved.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Minimal. Most of the information that will be provided in the monthly reports is already provided on a quarterly basis. Developing the additional descriptive information should not require significant additional staff resources.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger

Attachment

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION No. 2012-008

A Resolution of the Board of Directors of the Bay Area Air Quality Management District Regarding Reporting of NOV Issuance and Settlement to the Board

WHEREAS, pursuant to Health and Safety Code section 40725 *et seq.*, the Board of Directors is granted authority to adopt District regulations;

WHEREAS, pursuant to Health & Safety Code Section 40752, the Air Pollution Control Officer is granted authority to enforce District regulations;

WHEREAS, this separation of authorities reflects the general separation of powers enshrined in American law in which the legislative power resides with an elected body and the executive power resides with executive officers;

WHEREAS, to ensure the proper exercise of prosecutorial discretion by executive officers while retaining legislative oversight, the Board desires to be informed of significant enforcement activities;

WHEREAS, the Board currently receives quarterly reports listing all Notices of Violation issued and all Notices of Violation settled, and reports within a day of settlements of \$100,000 or more;

WHEREAS, the Board desires more frequent and more detailed reporting of certain enforcement activities;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Bay Area Air Quality Management District hereby directs District staff, in addition to making existing quarterly reports, to make reports in Board materials each month, or, for months in which no Board meeting is scheduled, the next month, listing (1) each Notice of Violation issued during the prior month, which report shall include (a) the identity of the alleged violator, (b) the date of the issuance of the Notice of Violation; and (c) a description of the nature of the alleged violation(s); and (2) each settlement during the prior month involving an amount of \$10,000 or more, which report shall include (a) the identity of the settling party, (b) the amount of the settlement, (c) the date the settlement was reached, and (d) a description of the violation(s) resolved by the settlement;

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 _____, 2012 by the following vote of the Board:

AYES:

NOES:

ABSENT:

John Gioia
Chairperson of the Board of Directors

ATTEST:

Nate Miley
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 11, 2012

Re: Report of the Personnel Committee Meeting of July 23, 2012

RECOMMENDED ACTION

The Personnel Committee recommends the Board of Directors adopt a resolution to adjust the Deputy Air Pollution Control Officer (DAPCO) benefits to annually provide an additional week of Management Leave.

BACKGROUND

The Personnel Committee met on July 23, 2012, but was precluded, under the Brown Act, from making a recommendation for approval on this item at the Board of Directors Special Meetings on July 30, 2012, or September 10, 2012.

The Committee received and considered the report and recommendation regarding the Executive Officer/Air Pollution Control Officer conducting a salary review for the DAPCOs as proposed in the April 25, 2012, Budget and Finance Committee meeting.

At its regular meeting on September 19, 2012, the Board of Directors considered the recommendation of the Personnel Committee. The Board of Directors moved to approve the report, but the motion was postponed to the next regular Board meeting scheduled on October 17, 2012 by Chairman John Gioia pending additional information requested by Board members at the September 19, 2012 meeting.

Attached is the staff report that was presented in the Personnel Committee packet for the July 23, 2012 meeting and in the Board of Directors packet for the September 19, 2012 meeting. Also attached is the additional information requested at the September 19, 2012 meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACTS:

None. Possible adjustments to the DAPCO benefits are included in the 2012-2013 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Ana Sandoval

Attachment A: 7/23/12 – Personnel Committee Meeting Agenda Item #5

Attachment B: Resolution #2012-009 of the Board of Directors of the Bay Area Air Quality
Management District to Adjust the Management Leave for the Deputy Air
Pollution Control Officer Position

Attachment C: Deputy Air Pollution Control Officer Benefit Information

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Brad Wagenknecht and Members
of the Personnel Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: July 23, 2012

Re: Discussion and Consideration of Adjustments to the Deputy Air Pollution Control
Officer Benefits

RECOMMENDED ACTION

Discuss and consider recommending Board of Directors approval of adjustments to the Deputy Air Pollution Control Officer (DAPCO) benefits.

BACKGROUND

The Executive Officer/APCO conducted salary reviews for the DAPCOs as proposed in the April 25, 2012 Budget and Finance Committee meeting.

DISCUSSION

The Executive Officer/APCO will present potential adjustments of the DAPCO benefits based on the salary reviews for the Personnel Committee's consideration

BUDGET CONSIDERATION/FINANCIAL IMPACT

None. Possible adjustments to the DAPCO benefits are included in the 2012-2013 budget.

Respectfully submitted,



Jack P. Broadbent
Executive Officer/APCO

Reviewed by: Jack Colbourn

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

RESOLUTION NO. 2012-009

**A Resolution of the
Board of Directors of the Bay Area Air Quality Management District
to Adjust the Management Leave for the Deputy Air Pollution Control Officer
Position**

WHEREAS, the Board of Directors of the Bay Area Air Quality Management District has the authority to establish and amend benefit provisions for management employees;

WHEREAS, the Board of Directors adopted resolution 2002-17 which provides Management Leave of 5 days per fiscal year for management employees;

WHEREAS, the Board of Directors adopted resolution 2011-14 which increased Management Leave over a period of three years for management employees;

WHEREAS, the Personnel Committee of the Bay Area Air Quality Management District has met and discussed benefit changes for the position of Deputy Air Pollution Control Officer;

WHEREAS, on the basis of the meetings, discussion and review, the Bay Area Air Quality Management District will make the following adjustments regarding Management Leave for the position of Deputy Air Pollution Control Officer:

1. Beginning in FYE 2013 add 5 days of Management Leave in addition to that provided by the previous resolutions:
2. Allow any unused portion to be cashed out by the employee.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors elects to adjust the Management Leave for the Deputy Air Pollution Control Officer position as set forth above.

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 _____, 2012 by the following vote of the Board:

AYES:

NOES:

ABSTAIN:

ABSENT:

John Gioia
Chair of the Board of Directors

ATTEST:

Nate Miley
Secretary of the Board of Directors

Deputy Officer Salary Comparison

As of Spring 2012

Agency	Base Salary	Retirement Contribution	Other	Total
MTC Deputy Executive Director	\$213,514	\$6,000	-	\$219,514
East Bay Regional Parks District Assistant General Manager III	\$202,874	\$14,201	-	\$217,075
East Bay Municipal Water District Director of Wastewater	\$207,060	-	-	\$207,060
BAAQMD DAPCO	\$185,862	\$4,647	\$6,000	\$196,509

BAAQMD Deputy Air Pollution Control Officer Leave Summary

As of October 2012

Leave type	Annual in Hours
Sick Leave	96
Annual - dependent on years of service	96 to 240
Floating Holiday	72
Management Leave	64
Proposed Additional Management Leave	40

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 2, 2012

Re: Report of the Mobile Source Committee Meeting of September 27, 2012

RECOMMENDED ACTION

- A) None. Informational item, receive and file.
- B) Transportation Fund for Clean Air (TFCA) Regional Fund Policies and Evaluation Criteria for Fiscal Year Ending (FYE) 2013 and Proposed Allocations for Shuttle and Ridesharing, and Electronic Bicycle Locker Projects:
 - 1) Approve the proposed FYE 2013 TFCA Regional Fund Policies and Evaluation Criteria (FYE 2013 TFCA Policies) presented in 10/17/12 Board of Directors Attachment C, as revised by the Committee to maintain Pilot Shuttle Projects as an eligible product category;
 - 2) Approve an allocation of up to \$4 million in TFCA Regional Funds for shuttle/feeder bus and regional ridesharing projects; and
 - 3) Approve an allocation of up to \$400,000 for electronic bicycle lockers.

BACKGROUND

The Mobile Source Committee met on Thursday, September 27, 2012. The Committee received and considered the following memos and recommendations:

- A) Update on Plug-In Electric Vehicle Programs
- B) TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013 and Proposed Allocations for Shuttle and Ridesharing, and Electronic Bicycle Locker Projects

Attached are the staff memos presented in the Mobile Source Committee packet.

Chairperson Scott Haggerty will provide an oral report of the committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None. The Air District match and administrative funding for these projects comes from the TFCA program.
- B) None. The Air District distributes “pass-through” funds to grantees on a reimbursement basis. Administrative costs for the TFCA Regional Fund program are provided by the funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher and Maricela Martinez
Reviewed by: Ana Sandoval

Attachment A: 9/27/12 – Mobile Source Committee Meeting Agenda #4

Attachment B: 9/27/12 – Mobile Source Committee Meeting Agenda #5 with Attachments

Attachment C: Proposed TFCA Regional Fund Policies and Evaluation Criteria (FYE 2013 TFCA Policies) as revised by the Mobile Source Committee to maintain Pilot Shuttle Projects as an eligible product category

Attachment D: Redlined Version of Proposed TFCA Regional Fund Policies and Evaluation Criteria (FYE 2013 TFCA Policies) as revised by the Mobile Source Committee to maintain Pilot Shuttle Projects as an eligible product category

AGENDA: 4

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 14, 2012

Re: Update on Plug-in Electric Vehicle (PEV) Programs

RECOMMENDATION:

None. Informational item, receive and file.

BACKGROUND

Recognizing the potential of Plug-In Electric Vehicles, or PEVs, to be an important technology in reducing emissions in the Bay Area, the Air District has allocated more than \$6 million in Transportation Fund for Clean Air (TFCA) funding to deploy PEV infrastructure over the past three fiscal years (fiscal years ending (FYE) 2010, 2011 and 2012). To ensure that these investments are well coordinated with the Bay Area's needs, the Air District applied for, and was successfully awarded, a number of state and federal grants with its partners to undertake regional PEV readiness planning in both the Bay Area and Monterey Bay regions. The Bay Area and Monterey Bay regions include the following 12 counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, Monterey, Santa Cruz, and San Benito.

DISCUSSION

Regional PEV Plan – United States Department of Energy (DOE) Grant

The Air District is one of six awardees that have received funding from the DOE to collaborate on a California PEV readiness plan. In order to complete this effort locally, the Air District has partnered with the Association of Bay Area Governments (ABAG), Metropolitan Transportation Commission (MTC), Bay Area Clean Cities Coalitions (East Bay, San Francisco and Silicon Valley), Bay Area EV Strategic Council and Monterey Bay Electric Vehicle Association (MBEVA). Under this grant, the Air District will produce a regional plan that will provide the Bay Area and Monterey Bay regions with a PEV deployment strategy based on the following areas:

- Projections for PEV ownership and deployment; barriers to PEV ownership, deployment, and discussion of steps to eliminate barriers.
- Potential sites and types of charging stations for regional PEV charging infrastructure.

- An assessment of local government’s PEV readiness with respect to construction, permitting, and inspection; zoning, parking rules, local ordinances; and building codes; stakeholder training and education; consumer education for PEVs; and minimizing grid and utility impacts of PEVs.

Key Findings to Date

Over the past 9 months, the Air District and its partners have engaged in an extensive analysis of PEV readiness in the region. This effort has highlighted some significant gaps and barriers to PEV adoption which need to be addressed in the Regional PEV Plan. Some key initial findings that need to be addressed are:

- The relatively high cost of the vehicle and associated infrastructure are still a barrier for most consumers.
- In a recent survey conducted by the Air District (88% of local governments responding), 50% of cities and counties have indicated that they may need additional resources such as training and other support to attain PEV readiness in the areas of zoning ordinances, building codes and permitting practices.
- Multi-unit family dwellings are still in need of significant assistance in order to provide charging for PEV owners. In a survey conducted by the California Air Resources Board's clean vehicle rebate program, 97% of residential charging stations installed to date are in single-family homes.
- Additional work needs to be performed to determine the appropriate amount and types of publicly available charging infrastructure.
- Significant education is still needed for local jurisdiction staff and the public in the region related to the use and benefits of electric vehicles.

As part of finalizing the draft plan staff is currently exploring these issues and will update the Committee on proposed solutions.

Outreach

In order to introduce the plan to members of the public, the Air District will be conducting six informational sessions throughout the region during late September through mid-October. At these meetings (See Table 1), staff will present an overview of the draft Plan and solicit questions and input from the public. Feedback from the sessions and comments that are provided online will be incorporated into the final Plan.

Table 1 - Informational Meetings on PEV Readiness Plan

<p>Thursday, September 27 - 7 p.m. to 9 p.m. Hartnell College - Steinbeck Hall 411 Central Avenue, Salinas</p>	<p>Tuesday, October 9 - 7 p.m. to 9 p.m. St. Mary's Cathedral 1111 Gough Street, San Francisco</p>
<p>Tuesday, October 2 - 7 p.m. to 9 p.m. De Anza College - Automotive Tech. Dept., Bldg E1 21250 Stevens Creek Blvd., Cupertino</p>	<p>Thursday, October 11 - 7 p.m. to 9 p.m. Fairfield Community Center - Willow Room 1000 Kentucky Street, Fairfield</p>
<p>Wednesday, October 3 - 7 p.m. to 9 p.m. Marin Wellness Center-Room110 3240 Kerner Blvd., San Rafael</p>	<p>Tuesday, October 16 - 7 p.m. to 9 p.m. Oakland City Hall - Hearing Room 3 1 Frank H. Ogawa Plaza, Oakland</p>

Additional Regional PEV Planning– California Energy Commission (CEC) Grant

While the process undertaken for the DOE grant addresses a number of significant areas for the region with regard to PEV readiness, there are a number of additionally important topics that lie outside of the scope of that effort. In order to address those, the Air District will analyze the following areas under two CEC grants for the Bay Area and Monterey Bay regions:

- Development of strategies that support accelerated PEV adoption in private and public fleets.
- Identification of strategies to attract PEV manufacturing, production, infrastructure and services to the Bay Area and California.
- Integration of the Regional PEV Plan into the Bay Area’s Sustainable Communities Strategies (SCS) plan.

This work is expected to commence in late October and to be completed in mid-2013.

Air District PEV Deployment Program

The Air District has provided over \$6 million in support for electric vehicle supply equipment (EVSE) deployment in the Bay Area. This funding has been deployed in two phases: Phase 1 is a \$1 million program for a publicly accessible EVSE charging network which includes over 200 Level 2 and 6 DC fast charge EVSE and one battery switch station. Phase 2 provides an additional \$5 million to install 2,750 residential level 2 and 50 DC fast charge EVSE.

A number of these EVSE deployment projects have been recently completed and placed into service with the remainder scheduled for completion by December 31, 2013. As of June 30, 2012, more than 800 residential home charging stations and 50 publicly available Level 2 charging stations have been installed throughout the Bay Area.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Air District match and administrative funding for these projects comes from the TFCA program.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Karen Schkolnick
Reviewed by: Damian Breen

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: September 13, 2012

Re: Transportation Fund for Clean Air (TFCA) Regional Fund Policies and
Evaluation Criteria for fiscal year ending (FYE) 2013 and Proposed Allocations
for Shuttle/Feeder Bus and Ridesharing Projects, and Electronic Bicycle Lockers

RECOMMENDED ACTIONS:

Recommend Board of Directors:

- 1) Approve the proposed fiscal year ending (FYE) 2013 TFCA Regional Fund Policies and Evaluation Criteria (FYE 2013 Policies) presented in Attachment A;
- 2) Approve an allocation of up to \$4 million in TFCA Regional Funds for shuttle/feeder bus and regional ridesharing projects; and
- 3) Approve an allocation of up to \$400,000 for electronic bicycle lockers.

BACKGROUND

In 1991, the California State Legislature authorized the Bay Area Air Quality Management District (Air District) to impose a \$4 surcharge on motor vehicles registered within the San Francisco Bay Area to fund projects that reduce on-road motor vehicle emissions. The Air District has allocated these funds to its Transportation Fund for Clean Air (TFCA) to fund eligible projects. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

Sixty percent (60%) of TFCA funds are awarded directly by the Air District. Portions of this funding are allocated to Air District Board of Directors (Board) approved eligible programs or projects implemented directly by the Air District, including the Smoking Vehicle Program, Enhanced Enforcement Projects and the Spare the Air Program. For the remainder of the funding received (referred to as the TFCA Regional Fund program), the Board also adopts policies and evaluation criteria. As part of this report staff will propose policies for the TFCA Regional Fund Program for FYE 2013 and funding allocations for shuttle, ridesharing and electronic bike locker projects for the Committee's consideration.

DISCUSSION

The proposed FYE 2013 Policies include project-specific policies that would apply to shuttle/feeder bus and regional ridesharing and electronic bicycle locker, as well as general policies that are applicable to all TFCA Regional Fund project types. Also, per Board direction on December 16, 2009, the Executive Officer/APCO will continue to execute Grant Agreements with individual grant award amounts up to \$100,000 for projects that meet the respective governing policies and guidelines. TFCA projects with grant award amounts over \$100,000 will continue to be brought to the Committee for consideration at least on a quarterly basis.

Staff will also return later this fiscal year with further recommendations for Committee consideration including expansion of the eligible project categories (e.g., alternative fuel vehicle, advanced technology demonstration, etc.).

Additionally, the proposed TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013 contain the following revisions:

- Clarification of the existing requirement that shuttle projects must support and complement the use of existing major mass transit services by linking a mass transit hub (i.e. rail, Bus Rapid Transit (BRT) station, ferry, bus terminal or airport) to or from a final destination (distinct commercial, employment or residential area).
- Removal of pilot shuttle projects as an eligible project category.
- Addition of electronic bicycle lockers as an eligible project category.
- Clarification of text to ensure conformity with guiding legislative requirements.

Funding Allocations

As part of this report, staff is also recommending the allocation of \$4.4 million in TFCA Regional Fund monies including \$4 million for shuttle/feeder bus and regional ridesharing projects and \$400,000 for electronic bicycle locker projects. Staff's recommendation to allocate \$4 million for shuttle/feeder bus regional ridesharing projects is based on previous Board direction to maintain the funding for this program at its existing level while staff explores options for shuttle projects with the Metropolitan Transportation Commission. Also, approximately \$4 million has been awarded to shuttle projects in each of the past three years.

On June 2, 2010, the Board approved the allocation of \$600,000 for the bulk purchase of bicycle racks under the Bicycle Rack Voucher Project (BRVP). Staff is now recommending that additional funding for electronic bicycle lockers be provided via the FYE 2013 Regional Fund program. Electronic bicycle lockers have a high per-unit cost and require ongoing maintenance and operational contracts over multiple years that are better suited to oversight by the implementing public agency. Therefore, staff is recommending that this equipment be added as a separate project category in the proposed TFCA Regional Fund policies.

Any funding that is not spent in these categories within 12 months will revert back to the TFCA program for reallocation.

Outreach

On June 28, 2012, the Air District opened the public comment period for the proposed FYE 2013 Policies. The comment period closed on July 20, 2012, and resulted in the Air District receiving four sets of comments. The process was advertised via the Air District's TFCA grants email notification system and the proposed policies were posted on the Air District's website. Attachment A contains the proposed Policies for FYE 2013 and Attachment B shows the changes between the previous year's policies and the proposed FYE 2013 Policies. Attachment C provides a listing of the comments received on the proposed policies and staff's responses to these comments.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Air District distributes "pass-through" funds to grantees on a reimbursement basis. Administrative costs for the TFCA Regional Fund program are provided by the funding source.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Avra Goldman
Reviewed by: Karen Schkolnick

Attachment A: Proposed TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013
Attachment B: Redlined Version of Proposed TFCA Regional Fund Policies and Evaluation
Criteria for FYE 2013
Attachment C: Comments Received and Staff Responses to Proposed FYE 2013 Policies

TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FYE 2013

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

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District’s jurisdiction are eligible.

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013.

Projects must achieve surplus emission reductions, i.e., reductions that are beyond what is required through regulations, contracts, and other legally binding obligations both a) at the time the Air District Board of Directors approves a funding allocation and b) at the time the Air District executes the project’s funding agreement.

Under certain circumstances following approval of the project by the Board of Directors, the Air District may approve modifications of the approved project or of the terms of the grant agreement. The Air District will evaluate whether the proposed modification will reduce the amount of emissions the originally-approved project was designed to achieve, will negatively affect the cost-effectiveness of the project or will otherwise render the project ineligible (“major modification”). The Air District may approve the proposed major modification if the Air District determines that the project, as modified, will continue to achieve surplus emission reductions, based on the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed modification. The Air District may approve minor modifications, such as to correct mistakes in the grant agreement or to change the grantee, without a re-evaluation of the proposed modification in light of the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed minor modification.

2. **TFCA Cost-Effectiveness:** Unless otherwise noted below, projects must meet a cost-effectiveness (C-E) of \$90,000 per ton. Cost-effectiveness is based on the ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) reduced (\$/ton).

Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below.

Project Category	Policy #	C-E Level Maximum (\$/weighted ton)
Reserved	21	Reserved
Reserved	22	Reserved
Reserved	23	Reserved
Reserved	24	Reserved
Reserved	25	Reserved
Reserved	26	Reserved
Shuttle/Feeder Bus Service—Existing	27	\$90,000
Reserved	28	Reserved
Regional Ridesharing	29	\$90,000
Electronic Bicycle Lockers	30	\$90,000
Reserved	31	Reserved
Drayage Truck Replacement Projects	32	\$90,000

3. **Consistent with Existing Plans and Programs:** All project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for achieving and maintaining State and national ozone standards, those plans and programs established pursuant to California Health & Safety Code (HSC) sections 40233, 40717 and 40919, and, when applicable, with other adopted State, regional, and local plans and programs.
4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing with the Air District.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations that are permitted pursuant to HSC section 44241(b(7)).
 - b. **Authority to Apply:** Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
5. **Viable Project and Matching Funds:** Unless provided for otherwise in the policies and priorities for the specific project category (which are listed below), project applicants must include in the applications evidence of available matching funds from a non-Air District source that equal or exceed at least 10% of the total project cost.

The project must be financially viable, which means that the project sponsor has adequate funds to cover all stages of the project from its commencement through project completion. Applications must include evidence of financial resources sufficient to undertake and complete the project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.
6. **Minimum Grant Amount:** \$10,000 per project.
7. **Maximum Grant Amount:** Maximum award per calendar year:
 - a. **Each public agency** may be awarded up to \$1,500,000, and
 - b. **Each non-public entity** may be awarded up to \$500,000.
8. **Readiness:** Projects must commence in calendar year 2013 or sooner. “Commence” includes any preparatory actions in connection with the project’s operation or implementation. For purposes of this policy, “commence” can mean the issuance of a purchase order to secure project vehicles and equipment; commencement of shuttle and ridesharing service; or the delivery of the award letter for a construction contract.
9. **Maximum Two Years Operating Costs:** Service-based projects such as shuttle/feeder bus and ridesharing programs, may receive funding for up to two (2) years of operation or implementation. Projects that request up to \$100,000 annually in TFCA Regional Funds are eligible to apply for two years of funding. Projects that request more than \$100,000 annually in TFCA Regional Fund are eligible for only one year of funding.
10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable to carry out the purposes of the project, based on information the applicant received after the Board’s allocation of funding. The Air District will consider only requests that are within the eligible project category as the original project, meet the same cost-effectiveness as that of the original project application, comply with all TFCA Policies applicable for the original project, and are in compliance with all federal and State laws applicable to the revised project and District rules and regulations.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.
12. **Independent Air District Audit Findings and Determinations:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years from the date of the Air District's final determination in accordance with HSC section 44242. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented.

A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

Reimbursement is required where it has been determined that funds were expended in a manner contrary to the TFCA Regional Program's requirements and requirements of HSC Code section 44220 et seq.; the project did not result in a reduction of air pollution from the mobile sources or transportation control measures pursuant to the applicable plan; the funds were not spent for reduction of air pollution pursuant to a plan or program to be implemented by the TFCA Program, or otherwise failed to comply with the approved project scope as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. Approval of an application for the project by the Air District Board of Directors does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of 180 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements throughout the life of the project.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies and other planning studies are not eligible for funding by the Air District. Funding may not be used for any planning activities that are not directly related to the implementation of a specific project or program. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.
16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare grant applications are not eligible for TFCA funding.
17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible.

Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds to fund a project that is eligible and meets the criteria for funding under both Funds. For the purpose of calculating the TFCA cost-effectiveness, the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.

19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project and are only available to projects sponsored by public agencies. Electronic bicycle locker projects are not eligible for administrative costs. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.
20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES

Clean Air Vehicle Projects

21. **Reserved.**
22. **Reserved.**
23. **Reserved.**
24. **Reserved.**
25. **Reserved.**
26. **Reserved.**

Shuttle/Feeder Bus Service Projects

27. **Shuttle/Feeder Bus Service:** These projects link a mass transit hub (e.g., rail or Bus Rapid Transit (BRT) station, ferry or bus terminal or airport) to or from a final destination. These projects are intended to reduce single-occupancy, commonly-made vehicular trips (e.g., commuting or shopping center trips) by enabling riders to travel the short distance between a mass transit hub and the nearby final destination. The final destination must be a distinct commercial, employment or residential area. The project's route must operate to or from a mass transit hub and must coordinate with the transit schedules of the connecting mass transit services. Project routes cannot replace or duplicate an existing local transit service link. These services are intended to support and complement use of existing major mass transit services.

Shuttle/feeder bus service applicants must be:

- a. A public transit agency or transit district that directly operates the shuttle/feeder bus service;
- b. A city, county, or any other public agency.

The project applicant must submit documentation from the General Manager of the transit district or transit agency that provides service in the area of the proposed route, which demonstrates that the proposed service does not duplicate or conflict with existing service.

Applicants are strongly encouraged to use the cleanest vehicle powered with the best-available technology (e.g., electric, hydrogen) to provide the shuttle/feeder bus service. Eligible vehicle types include:

- a. A zero-emission vehicle (e.g. electric, hydrogen)
- b. An alternative fuel vehicle (e.g. compressed natural gas, liquefied natural gas, propane);
- c. A hybrid-electric vehicle;
- d. A post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
- e. A post-1989 gasoline-fueled vehicle.

28. **Reserved.**

Regional Ridesharing

29. **Regional Ridesharing Projects:** For TFCRA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least five Bay Area counties, with no one county accounting for more than 80% of all riders, as verified by documentation submitted with the application. Ride matching services must be coordinated with the Metropolitan Transportation Commission's regional ridesharing program. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

Bicycle Facility Projects

30. **Electronic Bicycle Lockers:** Funding is available for project sponsors to purchase and install new electronic bicycle lockers. Projects must be included in an adopted countywide bicycle plan, Congestion Management Plan (CMP), or the Metropolitan Transportation Commission's Regional Bicycle Plan and serve a major activity center (e.g. transit station, office building, or school).

Costs for maintenance, repairs, upgrades, rehabilitation, operations, and project administration are not eligible for TFCRA funding.

The maximum award amount is based on the number of bicycles, at the rate of \$2,500 per bicycle accommodated by the lockers.

31. **Reserved.**

Drayage Truck Replacement Projects

32. **Drayage Truck Replacement Projects:** Projects that replace Class 8 (33,001 lb GVWR or greater) drayage trucks with engine Model Years (MY) of 2004, 2005 or 2006 with trucks that have engines certified to 2007 California Air Resources Board (CARB) emissions standards or cleaner are eligible for funding. The existing trucks with the 2004, 2005, or 2006 engines must be registered with the California Department of Motor Vehicles (DMV) and with the CARB drayage truck registry to a Bay Area address, and must be taken out of service after replacement.

REGIONAL FUND EVALUATION CRITERIA:

1. **Shuttle/Feeder Bus Services and Ridesharing Projects:** Complete applications received by the submittal deadline that meet the eligibility criteria, will be ranked for funding based on cost-effectiveness. At least sixty percent (60%) of the funds will be reserved for eligible projects that meet one or more of the following District priorities:
- Projects in Highly Impacted Communities as defined in the Air District Community Air Risk Evaluation (CARE) Program;
 - Priority Development Areas; and
 - Projects that significantly reduce greenhouse gasses (GHG).

The District will evaluate all Shuttle/Feeder Bus Services and Ridesharing project applications received after the submittal deadline on a first-come-first-served basis, based on the TFCRA policies, based on cost-effectiveness.

2. **Electronic Bicycle Locker(s) and Drayage Truck Replacement Projects:** Applications will be evaluated on a first-come-first-serve basis.

TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FYE 2013~~2~~

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

BASIC ELIGIBILITY

- Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District’s jurisdiction are eligible.

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013~~2~~.

Projects must achieve surplus emission reductions, ~~that is, i.e., reductions that are~~ beyond what is ~~currently~~ required through regulations, contracts, ~~and/or~~ other legally binding obligations ~~both a)~~ at the time the Air District Board of Directors approves a funding allocation and ~~b)~~ at the time ~~of the Air District execution of the project’s~~ the project’s funding agreement.

Under certain circumstances following approval of the project by the Board of Directors, the Air District may approve modifications of the approved project or of the terms of the grant agreement. The Air District will evaluate whether the proposed modification will reduce the amount of emissions the originally-approved project was designed to achieve, will negatively affect the cost-effectiveness of the project or will otherwise render the project ineligible (“major modification”). The Air District may approve the proposed major modification if the Air District determines that the project, as modified, will continue to achieve surplus emission reductions, based on the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed modification. The Air District may approve minor modifications, such as to correct mistakes in the grant agreement or to change the grantee, without a re-evaluation of the proposed modification in light of the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed minor modification.

- TFCA Cost-Effectiveness:** Unless otherwise noted below, projects must meet a cost-effectiveness (C-E) of \$90,000 per ton. Cost-effectiveness is based on the ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) reduced (\$/ton).

Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below.

Project <u>Category</u> Type	Policy #	C-E Level Maximum (\$/weighted ton)
Reserved	21	Reserved
Reserved	22	Reserved
Reserved	23	Reserved
Reserved	24	Reserved
Reserved	25	Reserved
Reserved	26	Reserved
Shuttle/Feeder Bus Service—Existing	27	\$90,000
Shuttle/Feeder Bus Service—Pilot <u>Reserved</u>	28	\$125,000 <u>Reserved</u>
Regional Ridesharing	29	\$90,000
Reserved—Electronic Bicycle Lockers	30	\$90,000 <u>Reserved</u>
Reserved	31	Reserved
Drayage Truck Replacement Projects	32	\$90,000

3. **Consistent with Existing Plans and Programs:** All project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for achieving and maintaining State and national ozone standards, those plans and programs established pursuant to California Health & Safety Code (HSC) sections 40233, 40717 and 40919, and, when applicable, with other adopted State, regional, and local plans and programs.
4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing with the Air District.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations that are permitted pursuant to HSC section 44241(b(7)).
 - b. **Authority to Apply:** Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
5. **Viable Project and Matching Funds:** Unless provided for otherwise ~~specified~~ in the policies and priorities for the specific project category ~~policies (which are listed below)~~, project applicants must include in the applications evidence of must provide available matching funds from a non-Air District source that, which equal or exceed at least 10% of the total project cost.

The project must be financially viable, which means that the project sponsor has adequate funds to cover all stages of the project from its commencement through project completion. Applications must include evidence of financial identify sufficient resources sufficient to undertake and complete the ~~respective~~ project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.
6. **Minimum Grant Amount:** \$10,000 per project.
7. **Maximum Grant Amount:** Maximum award per calendar year:
 - a. **Each public agency** may be awarded up to \$1,500,000, and
 - b. **Each non-public entity** may be awarded up to \$500,000.
8. **Readiness:** Projects must commence in calendar year 20132 or sooner. “Commence” includes any preparatory actions in connection with the project’s operation or implementation. For purposes of this policy, “commence” can mean the issuance of a purchase order to secure project vehicles and equipment; -commencement of shuttle and ridesharing service; the delivery of the award letter for a service contract; or the delivery of the award letter for a construction contract.
9. **Maximum Two Years Operating Costs:** Service-based projects such as shuttle/feeder bus and ridesharing programs, may receive funding for up to two (2) years of operation or implementation. Projects that request up to \$100,000 annually in TFCA Regional Funds are eligible to apply for two years of funding. Projects that request more than \$100,000 annually in TFCA Regional Fund are eligible for only one year of funding and must apply each year for subsequent funding.
10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable to carry out the purposes of the project, based on information the applicant received after the Board’s allocation of funding. The Air District will consider only requests that are

~~based on new information, are~~ within the ~~same~~ eligible project category as the original project, ~~and~~ meet the same cost-effectiveness as that of the original project application, comply with all TFCA Policies applicable for the original project, and are in compliance with all federal and State laws applicable to the revised project and District rules and regulations.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.
12. **Independent Air District Audit Findings and Determinations:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years from the date of the Air District's final determination in accordance with HSC section 44242. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented.

A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

Reimbursement is required where it has been determined that funds were expended in a manner contrary to the TFCA Regional Program's requirements and requirements of HSC Code section 44220 et seq.; the project did not result in a reduction of air pollution from the mobile sources or transportation control measures pursuant to the applicable plan; the funds were not spent for reduction of air pollution pursuant to a plan or program to be implemented by the TFCA Program, or otherwise failed to comply with the approved project scope as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. Approval of an application for the project by the Air District Board of Directors does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of ~~120-180~~ days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements throughout the life of the project.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies and other planning studies are not eligible for funding by the Air District. Funding may not be used for any planning activities that are not directly related to the implementation of a specific project or program. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.
16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare grant applications are not eligible for TFCA funding.
17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible.

Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds to fund a project that is eligible and meets the criteria for funding under both Funds. For the purpose of calculating the TFCA cost-effectiveness, the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.
19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project and are only available to projects sponsored by public agencies. Electronic bicycle locker projects are not eligible for administrative costs. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.
20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES

Clean Air Vehicle Projects

21. ~~Reserved.~~
22. ~~Reserved.~~
23. ~~Reserved.~~
24. ~~Reserved.~~
25. ~~Reserved.~~
26. ~~Reserved.~~

Shuttle/Feeder Bus Service Projects

27. **Shuttle/Feeder Bus Service:** These projects link a mass transit hub (e.g., rail or Bus Rapid Transit (BRT) station, ferry or bus terminal or airport) to or from a final destination. These projects are intended to reduce single-occupancy, commonly-made vehicular trips (e.g., commuting or shopping center trips) by enabling riders to travel the short distance between a mass transit hub (rail station, ferry terminal or airport) and the nearby final destination. that significantly lower single-occupancy vehicle trips while minimizing emissions created by the shuttle vehicle are eligible for funding. The final destination must be a distinct commercial, employment or residential area. The project's route must operate to or from a rail station, airport, or ferry terminal a mass transit hub and must coordinate with the transit schedules of the connecting rail or ferry mass transit services schedules. Projects-Project routes cannot replace or duplicate an existing local transit bus service link, or serve the same route as a local bus service, but rather must connect transit facilities to local commercial, employment and residential areas. These services are intended to supports and complements use of existing major mass transit services.

Shuttle/feeder bus service applicants must be:

- a. A public transit agency or transit district that directly operates the shuttle/feeder bus service;
- b. A city, county, or any other public agency.

~~Unless the applicant is the transit agency or transit district that directly implements this project,~~ The project applicant must submit documentation from the General Manager of the transit district or transit agency that provides service in the area of the proposed route, which demonstrates that the proposed service does not duplicate or conflict with existing service.

Applicants are strongly encouraged to use the cleanest vehicle powered with the best-available technology (e.g., electric, hydrogen) to provide the shuttle/feeder bus service. Eligible vehicle types include:

- a. A zero-emission vehicle (e.g. electric, hydrogen)
- b. An alternative fuel vehicle (e.g. compressed natural gas, liquefied natural gas, propane);
- c. A hybrid-electric vehicle;
- d. A post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
- e. A post-1989 gasoline-fueled vehicle.

28. ~~**Pilot Shuttle/Feeder Bus Service:** Pilot projects are defined as new routes that are at least 70% unique and have not been in operation in the past five years. In addition to meeting the requirements listed in Policy 27 for Shuttle/Feeder Bus Service, pilot shuttle/feeder project applicants must also provide data supporting the demand for the service, including letters of support from potential users and providers, and plans for financing the service in the future. Pilot projects must meet and maintain a minimum cost effectiveness of \$125,000/ton during the first year of operation and a minimum cost effectiveness of \$90,000 by the end of the second year of operation (see Policy #2). Projects may only receive a maximum of two years of funding under the Pilot designation. Applicants must apply for subsequent funding under the Shuttle/Feeder Bus designation, described above.~~
Reserved.

Regional Ridesharing

29. **Regional Ridesharing Projects:** For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least five Bay Area counties, with no one county accounting for more than 80% of all riders, as verified by documentation submitted with the application. Ride matching services must be coordinated with the Metropolitan Transportation Commission's regional ridesharing program. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

Bicycle Facility Projects

30. ~~**Reserved. Electronic Bicycle Lockers:** Funding is available for project sponsors to purchase and install new electronic bicycle lockers. Projects must be included in an adopted countywide bicycle plan, Congestion Management Plan (CMP), or the Metropolitan Transportation Commission's Regional Bicycle Plan and serve a major activity center (e.g. transit station, office building, or school).~~
Costs for maintenance, repairs, upgrades, rehabilitation, operations, and project administration are not eligible for TFCA funding.
The maximum award amount is based on the number of bicycles, at the rate of \$2,500 per bicycle accommodated by the lockers.

31. ~~Reserved.~~

2004 Drayage Truck Replacement Projects

32. **Drayage Truck Replacement Projects:** Projects that replace Class 8 (33,001 lb GVWR or greater) drayage trucks with engine Model Years (MY) of 2004, 2005 or 2006 with trucks that have engines certified to 2007 California Air Resources Board (CARB) emissions standards or cleaner are eligible for funding. The existing trucks with the 2004, 2005, or 2006 engines must be registered with the California Department of Motor Vehicles (DMV) and with the CARB drayage truck registry to a Bay Area address, and must be taken out of service after replacement.

REGIONAL FUND EVALUATION CRITERIA

~~TFCA projects will be evaluated on a first come first serve basis. In order to address Air District priorities, funding available will be reserved as follows:~~

- ~~1. For Shuttle/Feeder Bus Services and Ridesharing Projects: Complete applications received by the submittal deadline that meet the eligibility criteria, will be ranked for funding based on cost-effectiveness. At least sixty percent (60%) of the funds will be reserved for eligible projects that meet one or more of the following District priorities:~~

~~60% of funding available in this category will be reserved for projects that fall within one or more of the following categories:~~

- a. ~~Projects in Highly Impacted Communities as defined in the Air District Community Air Risk Evaluation (CARE) Reduction plans Program;~~
- b. ~~Priority Development Areas; and~~
- c. ~~Projects that significantly reduce greenhouse gasses (GHG).~~

~~The District will evaluate all Shuttle/Feeder Bus Services and Ridesharing project applications received after the submittal deadline on a first-come-first-served basis, based on the TFCA policies, based on cost-effectiveness.~~

- ~~1.2. Reserved Electronic Bicycle Locker(s) and Drayage Truck Replacement Projects: Applications will be evaluated on a first -come - first -serve basis.~~

Committer and Agency	Comment	Staff Response
<p>Marcella M. Rensi Manager, Programming & Grants VTA</p>	<p>Policy #27- Shuttle/Feeder Bus Service: The sentence in Policy 27 that reads “The project’s route must operate to or from a rail station, airport, or ferry terminal and must coordinate with the transit schedules of the connecting rail or ferry services” should be revised to include BRT stations and bus terminals in addition to rail stations, airports and ferry terminals.</p>	<p>Staff acknowledges that Bus Rapid Transit (BRT) stations and bus terminals function as transit hubs in much the same fashion that rail stations, airports and ferry terminals do. Accordingly, staff has modified the language in Policy #27 to clarify that the requirement to connect to a mass transit hub includes BRT stations and bus terminals.</p>
	<p>Policy #28 – Reserved: Policy 28 should be changed to conform to Policy 30 of BAAQMD’s Board-Adopted TFCA County Program Manager Fund Policies for FYE 2013 which allows for funding of Arterial Management projects (“<i>Arterial management grant applications must identify a specific arterial segment and define what improvement(s) will be made to affect traffic flow on the identified arterial segment.</i>”) In short, Arterial Management projects should be eligible for funding under the TFCA Regional Fund, in the same way that they are eligible under the Program Manager Fund. These projects are some of the most cost-effective projects funded with TFCA Program Manager funds, esp. in Santa Clara County which historically has had an automobile-dependent suburban development pattern. By reacting to changes in traffic patterns, signal timing works to keep roads operating efficiently.</p>	<p>The Air District has been working over the past several years to streamline the TFCA funding to ensure that it is as efficient and flexible as possible to meet the growing demand for grant funding. As part of this effort, staff has identified project types that are better suited for either the TFCA Regional Fund, TFCA County Program Manager Fund, and in some cases - both. Regional Funds are being focused on project types that are able to readily comply with the two-year timeframe mandated by the authorizing legislation, that have shown to provide the maximum emission reductions (related to cost-effectiveness), that can be used to target heavily impacted areas and/or that can provide the greatest regional benefit.</p> <p>Funding for Arterial Management projects is currently is available through the TFCA County Program Manager Fund.</p>
<p>Jim Castelaz President & CEO Motiv Power Systems, Inc.</p>	<p>Policy #27- Shuttle/Feeder Bus Service: Varying health impacts of different pollutants may not justify a simple sum total of tonnage as an appropriate metric of merit. One ton of some pollutants, such as particulate matter, may have much more detrimental public effect than one ton of NOx, for instance. While using a tonnage total is simple, it may skew emissions offsets towards the higher-volume easier-to-mitigate pollutants and away from pollutants that are more dangerous on a per-ton basis but have less total mass. An even simpler metric would be for the BAAQMD to require that all new vehicles eligible for funding have zero tailpipe emissions.</p>	<p>The Air District’s calculation of cost-effectiveness takes into account the varying health impacts referred to by the commenter. Specifically, this calculation multiplies (i.e., “weighs”) the emissions of particulate matter in recognition of the negative health impacts caused by this pollutant. Please see Policy #2 – TFCA Cost-Effectiveness.</p> <p>Please see the last two responses to this commenter that address the request to restrict funding to zero-emission vehicles.</p>
	<p>Policy #27- Shuttle/Feeder Bus Service: Motiv works with private shuttle fleets that provide valuable shuttle bus services in the bay Area. These fleets are occasionally hired by public agencies to take over some shuttle or bus service routes. We suggest that it would serve the goals of TFCA policies to open funding to private fleets under policy 27, provided the evaluation criteria were materially the same.</p>	<p>Health and Safety Code §44241 (c) (1) specifies that TFCA funds for shuttle/feeder bus projects may only be allocated to “cities, counties, the Metropolitan Transportation Commission, transit districts, or any other public agency...” Therefore, although only public agencies are eligible to apply for funds, non-public entities can on a contract bases, serve as service providers to public agencies that choose to contract these services out.</p>

Committer and Agency	Comment	Staff Response
<p><i>Continued,</i> Jim Castelaz President & CEO Motiv Power Systems, Inc.</p>	<p>Policy #27- Shuttle/Feeder Bus Service: The language used on Policy 27 encourages the use of the cleanest shuttle vehicle technology. The BAAQMD could strengthen this encouragement by aligning evaluation and funding criteria with minimizing the new shuttle vehicle’s emissions. If zero-emission shuttles are available, why should any shuttles with non-zero tailpipe emissions be eligible at all?</p>	<p>Although many shuttle projects have associated tailpipe emissions, successful shuttle projects reduce net emissions by significantly reducing single-occupancy vehicle miles driven. The evaluation of project cost-effectiveness takes into account shuttle tailpipe emissions and other factors that determine the net emissions generated by a project. All other factors being equal, a shuttle project that utilizes zero-emission vehicles would be more cost-effective than one that does not. As such, zero-emission projects score higher and are therefore be more likely to be funded at a higher rate. See Policy #2 – TFCA Cost-Effectiveness.</p>
	<p>Policy #32 – Drayage Truck Replacement Projects: Motiv has discussed potential opportunities for zero-emission drayage tractors. This would fit in with the goals of policy 32. Motiv would request that the same language used in policy 27, which states that “applicants are strongly encouraged to use the cleanest vehicle powered with the best available technology...” also be used in policy 32. This would encourage the development and deployment of zero-emission drayage tractors. Motiv would further encourage the BAAQMD to go one step further and make only zero-emission tractors eligible for funding under policy 32.</p>	<p>Policy 32 does not prohibit truck owners from using grant funds to purchase zero-emissions technology. The District is not aware of a viable, zero-emission technology currently being used for drayage trucking and this policy is not intended to fund research and development projects. At this time, the District is not proposing to limit the equipment eligible for funding under this policy.</p>
<p>Christopher Dacumos Budgets and Grants San Mateo County Transit District</p>	<p>How will the BAAQMD now consider new routes and/or proposals of new routes given the elimination of pilot shuttle projects as an eligible project type?</p>	<p>Staff is not recommending Regional Funds for pilot projects at this time. The Air District tested use of Regional Funds for pilot projects during the past three years and used this experience to evaluate the appropriateness of using TFCA funds for new/pilot shuttle projects. Given the frequency of challenges encountered by the sponsors of new projects, (e.g., low ridership, delays in project start-up), staff has determined that these projects are not the most appropriate for Regional Funds given that they have difficulties meeting all TFCA Regional Fund Policies, esp. Policies #2 – TFCA Cost-Effectiveness and #8 – Readiness.</p> <p>Funding for Pilot Shuttle projects is available through the TFCA County Program Manager Fund.</p>

TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FYE 2013

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

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District's jurisdiction are eligible.

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013.

Projects must achieve surplus emission reductions, i.e., reductions that are beyond what is required through regulations, contracts, and other legally binding obligations both a) at the time the Air District Board of Directors approves a funding allocation and b) at the time the Air District executes the project's funding agreement.

Under certain circumstances following approval of the project by the Board of Directors, the Air District may approve modifications of the approved project or of the terms of the grant agreement. The Air District will evaluate whether the proposed modification will reduce the amount of emissions the originally-approved project was designed to achieve, will negatively affect the cost-effectiveness of the project or will otherwise render the project ineligible ("major modification"). The Air District may approve the proposed major modification if the Air District determines that the project, as modified, will continue to achieve surplus emission reductions, based on the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed modification. The Air District may approve minor modifications, such as to correct mistakes in the grant agreement or to change the grantee, without a re-evaluation of the proposed modification in light of the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed minor modification.

2. **TFCA Cost-Effectiveness:** Unless otherwise noted below, projects must meet a cost-effectiveness (C-E) of \$90,000 per ton. Cost-effectiveness is based on the ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) reduced (\$/ton).

Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below.

Project Category	Policy #	C-E Level Maximum (\$/weighted ton)
Reserved	21	Reserved
Reserved	22	Reserved
Reserved	23	Reserved
Reserved	24	Reserved
Reserved	25	Reserved
Reserved	26	Reserved
Shuttle/Feeder Bus Service—Existing	27	\$90,000
Shuttle/Feeder Bus Service—Pilot	28	\$125,000
Regional Ridesharing	29	\$90,000
Electronic Bicycle Lockers	30	\$90,000
Reserved	31	Reserved
Drayage Truck Replacement Projects	32	\$90,000

3. **Consistent with Existing Plans and Programs:** All project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for achieving and maintaining State and national ozone standards, those plans and programs established pursuant to California Health & Safety Code (HSC) sections 40233, 40717 and 40919, and, when applicable, with other adopted State, regional, and local plans and programs.
4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing with the Air District.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations that are permitted pursuant to HSC section 44241(b(7)).
 - b. **Authority to Apply:** Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
5. **Viable Project and Matching Funds:** Unless provided for otherwise in the policies and priorities for the specific project category (which are listed below), project applicants must include in the applications evidence of available matching funds from a non-Air District source that equal or exceed at least 10% of the total project cost.

The project must be financially viable, which means that the project sponsor has adequate funds to cover all stages of the project from its commencement through project completion. Applications must include evidence of financial resources sufficient to undertake and complete the project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.

6. **Minimum Grant Amount:** \$10,000 per project.
7. **Maximum Grant Amount:** Maximum award per calendar year:
 - a. **Each public agency** may be awarded up to \$1,500,000, and
 - b. **Each non-public entity** may be awarded up to \$500,000.
8. **Readiness:** Projects must commence in calendar year 2013 or sooner. "Commence" includes any preparatory actions in connection with the project's operation or implementation. For purposes of this policy, "commence" can mean the issuance of a purchase order to secure project vehicles and equipment; commencement of shuttle and ridesharing service; or the delivery of the award letter for a construction contract.
9. **Maximum Two Years Operating Costs:** Service-based projects such as shuttle/feeder bus and ridesharing programs, may receive funding for up to two (2) years of operation or implementation. Projects that request up to \$100,000 annually in TFCA Regional Funds are eligible to apply for two years of funding. Projects that request more than \$100,000 annually in TFCA Regional Fund are eligible for only one year of funding.
10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable to carry out the purposes of the project, based on information the applicant received after the Board's allocation of funding. The Air District will consider only requests that are within the eligible project category as the original project, meet the same cost-effectiveness as that of the original project application, comply with all TFCA Policies applicable for the original project, and are in compliance with all federal and State laws applicable to the revised project and District rules and regulations.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.
12. **Independent Air District Audit Findings and Determinations:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years from the date of the Air District's final determination in accordance with HSC section 44242. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented.

A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

Reimbursement is required where it has been determined that funds were expended in a manner contrary to the TFCA Regional Program's requirements and requirements of HSC Code section 44220 et seq.; the project did not result in a reduction of air pollution from the mobile sources or transportation control measures pursuant to the applicable plan; the funds were not spent for reduction of air pollution pursuant to a plan or program to be implemented by the TFCA Program, or otherwise failed to comply with the approved project scope as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. Approval of an application for the project by the Air District Board of Directors does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of 180 days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements throughout the life of the project.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies and other planning studies are not eligible for funding by the Air District. Funding may not be used for any planning activities that are not directly related to the implementation of a specific project or program. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.
16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare grant applications are not eligible for TFCA funding.
17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible.

Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds to fund a project that is eligible and meets the criteria for funding under both Funds. For the purpose of calculating the TFCA cost-effectiveness, the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.

19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project and are only available to projects sponsored by public agencies. Electronic bicycle locker projects are not eligible for administrative costs. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.
20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES

Clean Air Vehicle Projects

21. **Reserved.**
22. **Reserved.**
23. **Reserved.**
24. **Reserved.**
25. **Reserved.**
26. **Reserved.**

Shuttle/Feeder Bus Service Projects

27. **Shuttle/Feeder Bus Service:** These projects link a mass transit hub (e.g., rail or Bus Rapid Transit (BRT) station, ferry or bus terminal or airport) to or from a final destination. These projects are intended to reduce single-occupancy, commonly-made vehicular trips (e.g., commuting or shopping center trips) by enabling riders to travel the short distance between a mass transit hub and the nearby final destination. The final destination must be a distinct commercial, employment or residential area. The project's route must operate to or from a mass transit hub and must coordinate with the transit schedules of the connecting mass transit services. Project routes cannot replace or duplicate an existing local transit service link. These services are intended to support and complement use of existing major mass transit services.

Shuttle/feeder bus service applicants must be:

- a. A public transit agency or transit district that directly operates the shuttle/feeder bus service;
- b. A city, county, or any other public agency.

The project applicant must submit documentation from the General Manager of the transit district or transit agency that provides service in the area of the proposed route, which demonstrates that the proposed service does not duplicate or conflict with existing service.

Applicants are strongly encouraged to use the cleanest vehicle powered with the best-available technology (e.g., electric, hydrogen) to provide the shuttle/feeder bus service. Eligible vehicle types include:

- a. A zero-emission vehicle (e.g. electric, hydrogen)
 - b. An alternative fuel vehicle (e.g. compressed natural gas, liquefied natural gas, propane);
 - c. A hybrid-electric vehicle;
 - d. A post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
 - e. A post-1989 gasoline-fueled vehicle.
28. **Pilot Shuttle/Feeder Bus Service:** Pilot projects are defined as new routes that are at least 70% unique and have not been in operation in the past five years. In addition to meeting the requirements listed in Policy 27 for Shuttle/Feeder Bus Service, pilot shuttle/feeder project applicants must also provide data supporting the demand

for the service, including letters of support from potential users and providers, and plans for financing the service in the future. Pilot projects must meet and maintain a minimum cost-effectiveness of \$125,000/ton during the first year of operation and a minimum cost-effectiveness of \$90,000 by the end of the second year of operation (see Policy #2). Projects may only receive a maximum of two years of funding under the Pilot designation. Applicants must apply for subsequent funding under the Shuttle/Feeder Bus designation, described above.

Regional Ridesharing

29. **Regional Ridesharing Projects:** For TFCA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least five Bay Area counties, with no one county accounting for more than 80% of all riders, as verified by documentation submitted with the application. Ride matching services must be coordinated with the Metropolitan Transportation Commission's regional ridesharing program. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

Bicycle Facility Projects

30. **Electronic Bicycle Lockers:** Funding is available for project sponsors to purchase and install new electronic bicycle lockers. Projects must be included in an adopted countywide bicycle plan, Congestion Management Plan (CMP), or the Metropolitan Transportation Commission's Regional Bicycle Plan and serve a major activity center (e.g. transit station, office building, or school).

Costs for maintenance, repairs, upgrades, rehabilitation, operations, and project administration are not eligible for TFCA funding.

The maximum award amount is based on the number of bicycles, at the rate of \$2,500 per bicycle accommodated by the lockers.

31. **Reserved.**

Drayage Truck Replacement Projects

32. **Drayage Truck Replacement Projects:** Projects that replace Class 8 (33,001 lb GVWR or greater) drayage trucks with engine Model Years (MY) of 2004, 2005 or 2006 with trucks that have engines certified to 2007 California Air Resources Board (CARB) emissions standards or cleaner are eligible for funding. The existing trucks with the 2004, 2005, or 2006 engines must be registered with the California Department of Motor Vehicles (DMV) and with the CARB drayage truck registry to a Bay Area address, and must be taken out of service after replacement.

REGIONAL FUND EVALUATION CRITERIA:

1. **Shuttle/Feeder Bus Services and Ridesharing Projects:** Complete applications received by the submittal deadline that meet the eligibility criteria, will be ranked for funding based on cost-effectiveness. At least sixty percent (60%) of the funds will be reserved for eligible projects that meet one or more of the following District priorities:
- Projects in Highly Impacted Communities as defined in the Air District Community Air Risk Evaluation (CARE) Program;
 - Priority Development Areas; and
 - Projects that significantly reduce greenhouse gasses (GHG).

The District will evaluate all Shuttle/Feeder Bus Services and Ridesharing project applications received after the submittal deadline on a first-come-first-served basis, based on the TFCA policies, based on cost-effectiveness.

2. **Electronic Bicycle Locker(s) and Drayage Truck Replacement Projects:** Applications will be evaluated on a first-come-first-serve basis.

TFCA REGIONAL FUND POLICIES AND EVALUATION CRITERIA FOR FYE 2013~~2~~

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

BASIC ELIGIBILITY

1. **Eligible Projects:** Only projects that result in the reduction of motor vehicle emissions within the Air District's jurisdiction are eligible.

Projects must conform to the provisions of the California Health and Safety Code (HSC) sections 44220 et seq. and Air District Board of Directors adopted TFCA Regional Fund Policies and Evaluation Criteria for FYE 2013~~2~~.

Projects must achieve surplus emission reductions, ~~that is, i.e., reductions that are~~ beyond what is ~~currently~~ required through regulations, contracts, ~~and~~ other legally binding obligations ~~both a)~~ at the time the Air District Board of Directors approves a funding allocation and ~~b)~~ at the time ~~of the Air District execution of the project's~~ funding agreement.

Under certain circumstances following approval of the project by the Board of Directors, the Air District may approve modifications of the approved project or of the terms of the grant agreement. The Air District will evaluate whether the proposed modification will reduce the amount of emissions the originally-approved project was designed to achieve, will negatively affect the cost-effectiveness of the project or will otherwise render the project ineligible ("major modification"). The Air District may approve the proposed major modification if the Air District determines that the project, as modified, will continue to achieve surplus emission reductions, based on the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed modification. The Air District may approve minor modifications, such as to correct mistakes in the grant agreement or to change the grantee, without a re-evaluation of the proposed modification in light of the regulations, contracts, and other legally-binding obligations in effect at the time of the proposed minor modification.

2. **TFCA Cost-Effectiveness:** Unless otherwise noted below, projects must meet a cost-effectiveness (C-E) of \$90,000 per ton. Cost-effectiveness is based on the ratio of TFCA funds awarded divided by the sum total tons of reactive organic gases (ROG), oxides of nitrogen (NO_x), and weighted particulate matter 10 microns in diameter and smaller (PM₁₀) reduced (\$/ton).

Certain project categories further specify the eligible funding amount per item (for example, \$/vehicle) which is based on the cost-effectiveness levels below.

Project <u>Category</u> Type	Policy #	C-E Level Maximum (\$/weighted ton)
Reserved	21	Reserved
Reserved	22	Reserved
Reserved	23	Reserved
Reserved	24	Reserved
Reserved	25	Reserved
Reserved	26	Reserved
Shuttle/Feeder Bus Service—Existing	27	\$90,000
Shuttle/Feeder Bus Service—Pilot	28	\$125,000
Regional Ridesharing	29	\$90,000
Reserved <u>Electronic Bicycle Lockers</u>	30	\$90,000 <u>Reserved</u>
Reserved	31	Reserved
Drayage Truck Replacement Projects	32	\$90,000

3. **Consistent with Existing Plans and Programs:** All project categories must comply with the transportation control measures and mobile source measures included in the Air District's most recently approved strategy(ies) for achieving and maintaining State and national ozone standards, those plans and programs established pursuant to California Health & Safety Code (HSC) sections 40233, 40717 and 40919, and, when applicable, with other adopted State, regional, and local plans and programs.
4. **Eligible Recipients and Authority to Apply:** Grant recipients must be responsible for the implementation of the project, have the authority and capability to complete the project, and be an applicant in good standing with the Air District.
 - a. **Eligible Recipients:**
 - i. **Public agencies** are eligible to apply for all project categories.
 - ii. **Non-public entities** are only eligible to apply for new alternative-fuel (light, medium, and heavy-duty) vehicle projects, and advanced technology demonstrations that are permitted pursuant to HSC section 44241(b(7)).
 - b. **Authority to Apply:** Applications must include either: 1) a signed letter of commitment from an individual with authority to enter into a funding agreement and carry out the project (e.g., Chief Executive or Financial Officer, Executive Director, City Manager, etc.), or 2) a signed resolution from the governing body (e.g., City Council, Board of Supervisors, Board of Directors, etc.) authorizing the submittal of the application and identifying the individual authorized to submit and carry out the project.
5. **Viable Project and Matching Funds:** Unless provided for otherwise ~~specified~~ in the policies and priorities for the specific project category ~~policies (which are listed~~ below), project applicants must include in the applications evidence of ~~must provide~~ available matching funds from a non-Air District source that, which equal or exceed at least 10% of the total project cost.

The project must be financially viable, which means that the project sponsor has adequate funds to cover all stages of the project from its commencement through project completion. Applications must include evidence of financial ~~identify sufficient~~ resources sufficient to undertake and complete the respective project. The project sponsor shall not enter into a TFCA Regional Fund funding agreement until all non-Air District funding has been approved and secured.
6. **Minimum Grant Amount:** \$10,000 per project.
7. **Maximum Grant Amount:** Maximum award per calendar year:
 - a. **Each public agency** may be awarded up to \$1,500,000, and
 - b. **Each non-public entity** may be awarded up to \$500,000.
8. **Readiness:** Projects must commence in calendar year 20132 or sooner. "Commence" includes any preparatory actions in connection with the project's operation or implementation. For purposes of this policy, "commence" can mean the issuance of a purchase order to secure project vehicles and equipment; -commencement of shuttle and ridesharing service; the delivery of the award letter for a service contract; or the delivery of the award letter for a construction contract.
9. **Maximum Two Years Operating Costs:** Service-based projects such as shuttle/feeder bus and ridesharing programs, may receive funding for up to two (2) years of operation or implementation. Projects that request up to \$100,000 annually in TFCA Regional Funds are eligible to apply for two years of funding. Projects that request more than \$100,000 annually in TFCA Regional Fund are eligible for only one year of funding and must apply each year for subsequent funding.
10. **Project Revisions:** Project revisions initiated by the project sponsor which significantly change the project before the allocation of funds by the Air District Board of Directors may not be accepted. Following Air District Board of Directors allocation of funds for a project, an applicant may request revisions to that project that the applicant deems necessary or advisable to carry out the purposes of the project, based on information the applicant received after the Board's allocation of funding. The Air District will consider only requests that are

~~based on new information, are~~ within the ~~same~~ eligible project category as the original project, ~~and~~ meet the same cost-effectiveness as that of the original project application, comply with all TFCA Policies applicable for the original project, and are in compliance with all federal and State laws applicable to the revised project and District rules and regulations.

APPLICANT IN GOOD STANDING

11. **In Compliance with Agreement Requirements:** Project sponsors who have failed to meet project implementation milestones or who have failed to fulfill monitoring and reporting requirements for any project funded by the Air District may not be considered eligible for new funding until such time as all of the unfulfilled obligations are met.
12. **Independent Air District Audit Findings and Determinations:** Project sponsors who have failed either a fiscal audit or a performance audit for a prior Air District funded project will be excluded from future funding for five (5) years from the date of the Air District's final determination in accordance with HSC section 44242. Additionally, project sponsors with open projects will not be reimbursed for those projects until all audit recommendations and remedies have been satisfactorily implemented.

A failed fiscal audit means an uncorrected audit finding that confirms an ineligible expenditure of funds. A failed performance audit means that a project was not implemented as set forth in the project funding agreement.

Reimbursement is required where it has been determined that funds were expended in a manner contrary to the TFCA Regional Program's requirements and requirements of HSC Code section 44220 et seq.; the project did not result in a reduction of air pollution from the mobile sources or transportation control measures pursuant to the applicable plan; the funds were not spent for reduction of air pollution pursuant to a plan or program to be implemented by the TFCA Program, or otherwise failed to comply with the approved project scope as set forth in the project funding agreement.

13. **Signed Funding Agreement:** Only a fully executed funding agreement (i.e., signed by both the project sponsor and the Air District) constitutes the Air District's award of funds for a project. Approval of an application for the project by the Air District Board of Directors does not constitute a final obligation on the part of the Air District to fund a project.

Project sponsors must sign a funding agreement within 60 days from the date it has been transmitted to them in order to remain eligible for award of TFCA funds. The Air District may authorize an extension of up to a total period of ~~120-180~~ days from the transmittal because of circumstances beyond project sponsor's reasonable control and at the Air District's discretion.

14. **Insurance:** Each project sponsor must maintain general liability insurance and such additional insurance that is appropriate for specific projects, with coverage amounts specified in the respective funding agreements throughout the life of the project.

INELIGIBLE PROJECTS

15. **Planning Activities:** Feasibility studies and other planning studies are not eligible for funding by the Air District. Funding may not be used for any planning activities that are not directly related to the implementation of a specific project or program. In addition, land-use projects (i.e., Smart Growth, Traffic Calming, and Arterial Management) that have not completed the Preliminary Design phase are not eligible.
16. **Cost of Developing Proposals and Grant Applications:** The costs to develop proposals or prepare grant applications are not eligible for TFCA funding.
17. **Duplication:** Projects that have previously received TFCA funds and therefore do not achieve additional emission reductions are not eligible.

Combining TFCA County Program Manager Funds with TFCA Regional Funds to achieve greater emission reductions for a single project is not considered project duplication.

USE OF TFCA FUNDS

18. **Combined Funds:** TFCA County Program Manager Funds may be combined with TFCA Regional Funds to fund a project that is eligible and meets the criteria for funding under both Funds. For the purpose of calculating the TFCA cost-effectiveness, the combined sum of TFCA County Program Manager Funds and TFCA Regional Funds shall be used to calculate the TFCA cost of the project.
19. **Administrative Costs:** Administrative costs (i.e., the costs associated with administering a TFCA grant) are limited to a maximum of five percent (5%) of total TFCA funds expended on a project and are only available to projects sponsored by public agencies. Electronic bicycle locker projects are not eligible for administrative costs. To be eligible for reimbursement, administrative costs must be clearly identified in the application project budget and in the funding agreement between the Air District and the project sponsor.
20. **Expend Funds within Two Years:** Project sponsors must expend the awarded funds within two (2) years of the effective date of the funding agreement, unless a longer period is formally (i.e., in writing) approved in advance by the Air District in a funding agreement or as an amendment to the funding agreement.

ELIGIBLE PROJECT CATEGORIES

Clean Air Vehicle Projects

21. ~~-Reserved.~~
22. ~~-Reserved.~~
23. ~~-Reserved.~~
24. ~~-Reserved.~~
25. ~~-Reserved.~~
26. ~~-Reserved.~~

Shuttle/Feeder Bus Service Projects

27. **Shuttle/Feeder Bus Service:** These projects link a mass transit hub (e.g., rail or Bus Rapid Transit (BRT) station, ferry or bus terminal or airport) to or from a final destination. These projects are intended to reduce single-occupancy, commonly-made vehicular trips (e.g., commuting or shopping center trips) by enabling riders to travel the short distance between a mass transit hub (rail station, ferry terminal or airport) and the nearby final destination. that significantly lower single-occupancy vehicle trips while minimizing emissions created by the shuttle vehicle are eligible for funding. The final destination must be a distinct commercial, employment or residential area. The project's route must operate to or from a rail station, airport, or ferry terminal a mass transit hub and must coordinate with the transit schedules of the connecting rail or ferry mass transit services schedules. Projects-Project routes cannot replace or duplicate an existing local transit bus service link, or serve the same route as a local bus service, but rather must connect transit facilities to local commercial, employment and residential areas. These services are intended to supports and complements use of existing major mass transit services.

Shuttle/feeder bus service applicants must be:

- a. A public transit agency or transit district that directly operates the shuttle/feeder bus service;
- b. A city, county, or any other public agency.

~~Unless the applicant is the transit agency or transit district that directly implements this project,~~ The project applicant must submit documentation from the General Manager of the transit district or transit agency that provides service in the area of the proposed route, which demonstrates that the proposed service does not duplicate or conflict with existing service.

Applicants are strongly encouraged to use the cleanest vehicle powered with the best-available technology (e.g., electric, hydrogen) to provide the shuttle/feeder bus service. Eligible vehicle types include:

- a. A zero-emission vehicle (e.g. electric, hydrogen)
- b. An alternative fuel vehicle (e.g. compressed natural gas, liquefied natural gas, propane);
- c. A hybrid-electric vehicle;
- d. A post-1997 diesel vehicle with a CARB Verified Diesel Emission Control Strategy (e.g., retrofit); or
- e. A post-1989 gasoline-fueled vehicle.

28. **Pilot Shuttle/Feeder Bus Service:** Pilot projects are defined as new routes that are at least 70% unique and have not been in operation in the past five years. In addition to meeting the requirements listed in Policy 27 for Shuttle/Feeder Bus Service, pilot shuttle/feeder project applicants must also provide data supporting the demand for the service, including letters of support from potential users and providers, and plans for financing the service in the future. Pilot projects must meet and maintain a minimum cost-effectiveness of \$125,000/ton during the first year of operation and a minimum cost-effectiveness of \$90,000 by the end of the second year of operation (see Policy #2). Projects may only receive a maximum of two years of funding under the Pilot designation. Applicants must apply for subsequent funding under the Shuttle/Feeder Bus designation, described above.

Regional Ridesharing

29. **Regional Ridesharing Projects:** For TFCRA Regional Fund eligibility, ridesharing projects must be comprised of riders from at least five Bay Area counties, with no one county accounting for more than 80% of all riders, as verified by documentation submitted with the application. Ride matching services must be coordinated with the Metropolitan Transportation Commission's regional ridesharing program. Applications for projects that provide a direct or indirect financial transit or rideshare subsidy exclusively to employees of the project sponsor are not eligible.

Bicycle Facility Projects

30. ~~Reserved.~~ **Electronic Bicycle Lockers:** Funding is available for project sponsors to purchase and install new electronic bicycle lockers. Projects must be included in an adopted countywide bicycle plan, Congestion Management Plan (CMP), or the Metropolitan Transportation Commission's Regional Bicycle Plan and serve a major activity center (e.g. transit station, office building, or school).

Costs for maintenance, repairs, upgrades, rehabilitation, operations, and project administration are not eligible for TFCRA funding.

The maximum award amount is based on the number of bicycles, at the rate of \$2,500 per bicycle accommodated by the lockers.

31. ~~Reserved.~~

2004 Drayage Truck Replacement Projects

32. **Drayage Truck Replacement Projects:** Projects that replace Class 8 (33,001 lb GVWR or greater) drayage trucks with engine Model Years (MY) of 2004, 2005 or 2006 with trucks that have engines certified to 2007 California Air Resources Board (CARB) emissions standards or cleaner are eligible for funding. The existing trucks with the 2004, 2005, or 2006 engines must be registered with the California Department of Motor Vehicles (DMV) and with the CARB drayage truck registry to a Bay Area address, and must be taken out of service after replacement.

REGIONAL FUND EVALUATION CRITERIA

~~TFCA projects will be evaluated on a first come first serve basis. In order to address Air District priorities, funding available will be reserved as follows:~~

- 1. For Shuttle/Feeder Bus Services and Ridesharing Projects:** Complete applications received by the submittal deadline that meet the eligibility criteria, will be ranked for funding based on cost-effectiveness. At least sixty percent (60%) of the funds will be reserved for eligible projects that meet one or more of the following District priorities:

~~60% of funding available in this category will be reserved for projects that fall within one or more of the following categories:~~

- a. Projects in Highly Impacted Communities as defined in the Air District Community Air Risk Evaluation (CARE) Reduction plans Program;
- b. Priority Development Areas; and
- c. Projects that significantly reduce greenhouse gasses (GHG).

The District will evaluate all Shuttle/Feeder Bus Services and Ridesharing project applications received after the submittal deadline on a first-come-first-served basis, based on the TFCA policies, based on cost-effectiveness.

- 1.2. Reserved Electronic Bicycle Locker(s) and Drayage Truck Replacement Projects:** Applications will be evaluated on a first -come - first -serve basis.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 4, 2012

Re: Overview of the 2012/2013 Wood Smoke Reduction Program

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The 2012/2013 winter marks the fifth season that the *Winter Spare the Air (WSTA)* program includes a mandatory curtailment of wood burning throughout the Bay Area when a *WSTA* alert is issued.

DISCUSSION

For the 2012/2013 *WSTA* season, the Air District is working with local governments and the public to inform them about the air quality and health hazards of wood burning and about the wood burning rule. The Air District has also provided a model ordinance along with technical support for local governmental agencies designed to reduce localized wood smoke emissions. The advertising and outreach campaign will continue to use multiple language TV, radio, print, web, billboard, grassroots and in-theater spots. Educational materials will be distributed to the public via direct mail, public events, door-to-door canvassing and through the website. Beginning this season, the program will include a Wood Smoke Awareness School for first time offenders of the rule and increased fines for repeat offenders. Improved forecasting techniques will be used this season to attempt to lower peak concentrations of particulate matter. In addition, the Air District is partnering with Marin County on a pilot program to provide rebates up to \$750 for change-out of older, polluting wood burning devices in the San Geronimo Valley.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

The pilot program partnership includes a contribution of \$22,000. These funds will come from the Air District's General Fund.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Eric Stevenson
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: October 10, 2012

Re: Work Plan for Action Items Related to Accidental Releases from Industrial Facilities

RECOMMENDED ACTION

The Board of Directors will consider approving Air District's staff's enclosed Work Plan for completion of action items related to accidental releases at industrial facilities.

BACKGROUND

On August 6, 2012, a substantial fire resulted from a hydrocarbon leak at the #4 Crude Unit at the Chevron Richmond Refinery. The fire resulted in a large plume of black smoke at the Crude Unit and continuous visible emissions from a nearby flare. The Contra Costa County Health Department issued a community warning and ordered a shelter-in-place that lasted for about five hours in Richmond, San Pablo and North Richmond.

At the September 10, 2012 Special Meeting of the Board of Directors Air District staff provided a summary of the Air District's response to the August 6, 2012 Chevron Richmond Refinery incident. Staff from Contra Costa County and the U.S. Chemical Safety Board also provided summaries of their agency's response to the incident.

Listed below are a series of follow-up actions that are underway or planned in response to the Chevron Richmond Refinery incident, some of which were described at the September 10, 2012 Board meeting. These actions include:

1. Continue the investigation of the Chevron Richmond Refinery incident, in coordination with other agencies involved, into violations of applicable air quality requirements in order to take appropriate enforcement action;
2. Review and update the Air District's incident response procedures;
3. Evaluate enhancements to the Air District's air quality monitoring capabilities, including convening experts to provide input on monitoring options;
4. Expedite development of a rule that would track air emissions at refineries over time, require mitigation of any significant increases in emissions that may occur, and require additional community air monitoring at refineries;

5. Evaluate the Air District's needed incident response resources, and develop amendments to the Air District's fee regulation to recover the costs of these resources;
6. Evaluate enhancements to community outreach during and after incidents to provide additional services to the public; and
7. Sponsor legislation that would provide the Air District with the authority to collect more substantial penalties that would provide industry with additional incentives to take proactive measures to avoid accidental releases.

DISCUSSION

At the October 17, 2012 Regular Board of Directors meeting, Air District staff will provide the Board with an update on the follow-up actions identified as a result of the Chevron Richmond Refinery incident. Additional details on these items are included in the attached Work Plan.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Air District staff plans to develop amendments to Regulation 3: Fees to recover the costs associated with the enclosed Work Plan.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jean Roggenkamp

Attachment



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

Draft Work Plan for
Action Items Related to Accidental Releases
from Industrial Facilities

Prepared by the staff of the
Bay Area Air Quality Management District

October 11, 2012

Background

On August 6, 2012, a substantial fire resulted from a hydrocarbon leak at a crude oil processing unit at the Chevron Richmond Refinery. The fire resulted in a large plume of black smoke and continuous visible emissions from a nearby flare. The Contra Costa County Health Department issued a community warning and ordered a shelter-in-place that lasted for about five hours in Richmond, San Pablo and North Richmond. In the weeks following the incident, thousands of residents sought medical treatment at nearby hospitals with most reportedly complaining of respiratory and eye discomfort.

The August 6, 2012 incident has prompted the Air District staff and Board of Directors to consider a series of follow-up actions intended both to improve the District's response to accidental releases, and to provide additional incentives for petroleum refineries and other large industrial facilities to take proactive measures to avoid such accidents. Seven specific action items are included in this Work Plan; they are listed below and described in more detail as follows.

1. Continue the investigation of the Chevron incident, in coordination with other agencies, into violations of applicable air quality requirements in order to take appropriate enforcement action;
2. Review and update Air District incident response procedures;
3. Evaluate enhancements to the Air District's air quality monitoring capabilities, including convening experts to provide input on monitoring options;
4. Expedite development of a rule that would track air emissions at refineries over time, require mitigation of any significant increases in emissions that may occur, and require additional community air monitoring at refineries;
5. Evaluate the Air District's needed incident response resources, and develop amendments to the District's fee regulation to recover the costs of these resources;
6. Evaluate enhancements to community outreach during and after incidents to provide additional services to the public; and
7. Sponsor legislation that would provide the Air District with the authority to collect more substantial penalties that would provide industry with additional incentives to take proactive measures to avoid accidental releases.

Follow-up Actions

1: Continue the investigation of the Chevron incident, in coordination with other agencies, into violations of applicable air quality requirements in order to take appropriate enforcement action.

Description

Staff is conducting a joint investigation of the Chevron incident along with the U.S. Chemical Safety Board (CSB) and Cal OSHA. The joint investigation involves collection of evidence

(e.g., through review of records, interviews of facility personnel, and collection of samples and other physical evidence) needed by the CSB and/or Cal OSHA, some of which is also needed by the District. After the joint investigation is completed, the District will begin a District-specific investigation which will focus on determining non-compliance with applicable air quality requirements, and collection of additional evidence to support appropriate enforcement action associated with Notices of Violation (NOVs) issued. An NOV was issued by the District on August 14, 2012 for the Chevron incident causing a Public Nuisance. As the investigation continues additional NOVs may be issued.

Staff will also continue to inspect the progress of the crude unit’s demolition, site clean-up, and re-construction to ensure all regulatory requirements are satisfied.

Tasks and Timelines

Task	Expected Completion Date
Complete Joint inter-agency investigation	Fourth quarter 2012
Complete District-specific investigation	First quarter 2013
Issue any additional NOVs	First quarter 2013
Inspect crude unit demolition and re-construction	Ongoing

2: Review and update the Air District’s incident response procedures.

Description

As provided by State law, emergency response agencies (e.g., the California Highway Patrol, Sheriff, local police, or local fire agencies) have the primary responsibility for scene management during an accidental release or emergency incident. The Air District is neither an emergency response agency nor a first responder. However, the Air District contributes in a support capacity to emergency response agencies utilizing District resources and expertise for air sample collection, air monitoring, laboratory analysis, engineering, inspection, and community and media relations. In this regard, the District has existing Incident Response Procedures, the focus of which is on operations within the District’s Compliance and Enforcement Division. Following the August 6, 2012 incident at the Chevron refinery, staff has begun the process of reviewing and updating the District’s Incident Response Procedures. The update will broaden the scope of the procedures to provide additional detail as to how District coordinates internally and with other agencies, and on improved communication strategies. The District will evaluate a coordinated message response program to ensure that consistent and timely information is delivered throughout incidents.

Tasks and Timelines

Task	Expected Completion Date
Review existing Incident Response Procedures identify potential enhancements	First quarter 2013
Confer with affected parties and incorporate improvements	Second quarter 2013
Finalize updated Procedures, and begin any necessary staff training	Second quarter of 2013

3: Evaluate enhancements to the Air District’s air quality monitoring capabilities, including convening experts to provide input on monitoring options.

Description

Staff has begun the process of identifying a contractor who will evaluate the current air monitoring network around affected facilities and provide a framework to broaden community monitoring. The contractor will focus on identifying equipment and methodologies to provide nearby residents with real-time exposure measurements to compounds potentially emitted from the identified facilities, and that will potentially provide a starting point for enforcement investigations when air concentrations are elevated.

The contractor will create a report identifying equipment and methodological options that will act as the basis for further evaluation and development from a panel of monitoring experts gathered from academia, industry, the community and other governmental agencies. The panel will discuss and weigh the various options and provide input to guide the Air District in the most effective and efficient way to conduct community air monitoring and provide this information to the public.

Tasks and Timelines

Task	Expected Completion Date
Retain contractor	Fourth quarter 2012
Contractor produces report outlining options	First quarter 2013
Report finalized and provided for review by panel of experts	Second quarter 2013
Panel convened and input provided based on contractor’s report	Second quarter 2013
Report finalized outlining panel’s recommendations	Third quarter 2013

4: Expedite development of a rule that would track air emissions at refineries over time, require mitigation of any significant increases in emissions that may occur, and require additional community air monitoring at refineries.

Description

Staff has previously developed a Regulatory Concept Paper for the development of a new Petroleum Refinery Emissions Tracking Rule. The concept paper was prepared to address concerns expressed about the air quality impacts that may result from the use of lower quality crude oil slates at refineries. These concerns include emissions associated with accidents that may be related to the higher corrosiveness of lower quality crudes, along with more routine air emissions.

Staff has begun the initial tasks involved in developing this new rule that would apply to all five petroleum refineries in the Bay Area and that would track changes in the facility’s air emissions, including those related to accidental releases. The scope of the new rule under development would also include monitoring of emissions through fence-line and/or community based air monitors. Any observed increases in air emissions at the facility above baseline levels would trigger a requirement for an analysis of the cause of the emissions increase (which may include various factors such as increases in production levels or declining crude oil quality), and a requirement for an assessment of public health impacts in the surrounding community resulting from the emissions increase. Any significant increases in emissions, as determined based on the impacts analysis, would trigger a requirement for mitigation through the use of best management practices or other appropriate measures. Information associated with rule implementation would be made available to the public, and a process would be established whereby information of a “business confidential” nature would be protected. Many aspects of the proposed rule would be patterned after the District’s highly successful rule adopted in 2005 to minimize emissions from flares at petroleum refineries.

Tasks and Timelines

Task	Expected Completion Date
Brief Board of Directors on rule status and solicit direction on issues	Periodically during rule development
Prepare Public Workshop Report and distribute Workshop Notice	Second quarter 2013
Hold community-based Public Workshops	Second quarter 2013
Meet with Stakeholder Workgroup	Throughout 2013, as needed

Prepare draft final rule and staff report for comments	Fourth quarter 2013
Contractor completes draft socioeconomic and CEQA Analyses	Fourth quarter 2013
CEQA document comment period	Fourth quarter 2013
Consider public comments and prepare final proposed rule	First quarter 2014
Set public hearing to consider rule adoption	Second quarter 2014
Hold public hearing to consider rule adoption	Second quarter 2014

5: Evaluate the Air District's needed incident response resources, and develop amendments to the District's fee regulation to recover the costs of these resources.

Description

A large incident involving an accidental release at an industrial facility can consume significant District staff resources related to investigation of the incident (including developing and pursuing an enforcement case if NOVs are issued), the collection and analysis of data, and communications with the affected community and the press. Additionally, capital resources such as specialized monitoring equipment are often used in incident response, or are currently needed to enhance capabilities. Currently, the District's costs associated with responding to, and following-up on, incidents involving accidents at industrial facilities are not recovered through fees that are specific to these activities. Staff recommends amending the District's fee regulation to include a provision for recovery of ongoing and event-based costs related to incident response and associated activities. Potentially, fees would be charged to facilities likely to have incidents and an additional fee charged to incidents at facilities to which the Air District is requested to respond.

Tasks and Timelines

Task	Expected Completion Date
Brief Board of Directors on rule amendment status and solicit direction on issues	Periodically during rule development
Evaluate on-going activity costs associated with incident response program activities	Fourth quarter 2012
Develop draft amendments to Regulation 3: Fees, to recover ongoing and event-based costs related to incident response	Fourth quarter 2012
Prepare Public Workshop Report and distribute	First quarter 2013

Workshop Notice	
Hold Public Workshop	First quarter 2013
Consider public comments and prepare final proposed rule amendments	First quarter 2013
Establish appropriate timekeeping codes to track costs of program activities that new fee covers	First quarter 2013
Set public hearing to consider adoption of new fee	First quarter 2013
Hold public hearing to consider adoption of new fee	First quarter 2013

6: Evaluate enhancements to community outreach during and after incidents to provide additional services to the public.

Description

A large incident involving an accidental release at an industrial facility can require significant community outreach resources. A deluge of inquiries and comments to District staff often begins during, or shortly after, the incident. Inquiries may continue for days, weeks, or even months afterwards. Community members often request follow-up on a variety of issues related to, or unrelated to, the incident. At times, existing staff resources may be inadequate to provide a high quality level of service to the public. Staff therefore believes that it is appropriate to evaluate potential enhancements to the District’s community outreach capabilities, including additional staffing.

Tasks and Timelines

Task	Expected Completion Date
Conduct analysis and prepare a report on recommended enhancements to the District’s community outreach program.	First quarter 2013
Present report and staff recommendations to Board of Directors	Second quarter 2013

7: Sponsor legislation that would provide the Air District with the authority to collect more substantial penalties that would provide industry with additional incentives to take proactive measures to avoid accidental releases.

Description

Staff has in the past unsuccessfully sought legislative changes to increase maximum penalties allowed under State law for violations of air quality requirements in order to serve as a more effective compliance incentive. Existing penalties are generally capped at \$10,000 per day, per violation, unless negligence is involved, in which case the penalty cap generally increases to \$25,000 per day, per violation. Staff believes that these penalty caps are generally too low, and especially so when the violation involved is a large incident with substantial excess emissions that results in a public nuisance. These incidents often take place on only a single day and thus the “per day” ceilings in the civil penalty statutes tend to undervalue these cases.

Tasks and Timelines

Task	Expected Completion Date
Develop an updated proposal to amend State law for increasing air district penalty caps	Fourth quarter 2012
Brief Board of Directors on status and solicit direction on issues	Fourth quarter 2012
Coordinate with other air districts and public agencies as appropriate	Ongoing
Pursue legislative channels for a bill author	First quarter 2013
If a bill is introduced, provide appropriate staff support during the legislative process	Ongoing