



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS REGULAR MEETING

March 19, 2014

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.

This meeting will be webcast. To see the webcast, please visit <http://www.baaqmd.gov/The-Air-District/Board-of-Directors/Agendas-and-Minutes.aspx> at the time of 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
MARCH 19, 2014
9:45 A.M.

BOARD ROOM
7TH FLOOR

CALL TO ORDER

Chairperson, Nate Miley

1. **Opening Comments**
Roll Call
Pledge of Allegiance

The Chair shall call the meeting to order and make opening comments. The Clerk of the Boards shall take roll of the Board members. The Chair shall lead the Pledge of Allegiance.

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

CONSENT CALENDAR (ITEMS 3 – 9)

Staff/Phone (415) 749-

3. Minutes of the Directors Regular Meeting of February 19, 2014

Clerk of the Boards/5073

The Board of Directors will consider approving the draft minutes of the Board of Directors Regular Meeting of February 19, 2014.

4. Board Communications Received from February 19, 2014 through March 18, 2014

J. Broadbent/5052

jbroadbent@baaqmd.gov

A copy of communications directed to the Board of Directors received by the Air District from February 19, 2014 through March 18, 2014, if any, will be at each Board Member's place.

5. Air District Personnel on Out-of-State Business Travel

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 notified of Air District personnel, if any, who have traveled on business out-of-state in the preceding month.

6. Notice of Violations Issued and Settlements in Excess of \$10,000 in February 2014
B. Bungler/4797
jbroadbent@baaqmd.gov

In accordance with Resolution No. 2012-08, the Board of Directors will receive a list of all Notices of Violation issued and all settlements for amounts in excess of \$10,000 during the month of February 2014.

7. Referral of Proposed Budget for Fiscal Year Ending (FYE) 2015 to the Budget and Finance Committee
J. Broadbent/5052
jbroadbent@baaqmd.gov

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures, and in compliance with Health and Safety Code Section 40276, the Board shall refer the proposed budget for FYE 2015 to the Budget and Finance Committee for review and consideration.

8. Adoption of Amendments to the Air District's Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will consider adoption of amendments to the Air District's Administrative Code, Division I: Operating Policies of the Hearing Board – Section 8.6: Limits on Term of Office.

9. Set a Public Hearing for April 16, 2014 to Consider Adoption of Proposed Amendments to Regulation 3: Fees and Approval of a Notice of Exemption from the California Environmental Quality Act (CEQA)
J. Broadbent/5052
jbroadbent@baaqmd.gov

At the April 16, 2014 meeting, the Board of Directors will consider adoption of proposed amendments to Regulation 3: Fees and approval of a Notice of Exemption from the California Environmental Quality Act (CEQA).

COMMITTEE REPORT(S)

10. Report of the **Stationary Source Committee** Meeting of February 24, 2014
CHAIR: J. Gioia
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Committee received the following reports:

A) **Discussion of Lehigh Southwest Cement Compliance with Regulation 9, Rule 13**

None; received and filed.

B) **Update on Sims Metal Management Facility**

None; received and filed.

C) **Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking**

None; received and filed.

11. Report of the **Mobile Source Committee** Meeting of February 27, 2014

CHAIR: S. Haggerty

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Committee received the following reports and recommends that the Board of Directors' approve the following items as indicated below:

A) **Fiscal Year Ending (FYE) 2014 Transportation for Clean Air (TFCA) Regional Fund Shuttle and Rideshare Projects**

1. *Approve awards for the TFCA Shuttle, Ridesharing and Vanpool projects listed in Attachment A to the Committee staff report.*
2. *Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended TFCA projects on Attachment A to the Committees staff report in the amount of \$3,732,038 .*

B) **Update on Air District Grant Programs**

None. Informational item, received and filed.

C) **On-Road Truck Replacement Funding**

1. *Approve changes to the FYE 2014 TFCA Regional Fund Policies to include on-road truck replacement projects as an eligible project type.*
2. *Allocate \$5 million in TFCA Regional Funds for eligible projects submitted as part of the Year 4 Goods Movement Program.*
3. *Authorize the Executive Officer/APCO to enter into contract for eligible projects.*

12. Report of the **Executive Committee** Meeting of March 17, 2014

CHAIR: N. Miley

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Committee will receive the following reports:

A) **Hearing Board Quarterly Report – October through December 2014**

None; received and filed.

B) **Update on Regulation 14, Rule 1 – Bay Area Commuter Benefits Program (BACBP)**

None; received and filed.

C) **Report on the Community Air Risk Evaluation Program and Identification of Impacted Communities**

None; received and filed.

D) **Briefing Regarding Senate Bill (SB) 1415 (Hill)**

None; received and filed.

PUBLIC HEARING

13. Public Hearing to Consider Adoption of Proposed Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program; and Approval of a California Environmental Quality Act (CEQA) Negative Declaration **J. Broadbent/5052**
jbroadbent@baaqmd.gov

The Board of Directors will consider adoption of a new rule: Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program; and approval of a California Environmental Quality Act (CEQA) Negative Declaration.

CLOSED SESSION

14. **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.

15. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR – (Government Code Section 54956.8)** *The Board of Directors will meet in closed session pursuant to Government Code Section 54956.8 to confer with real property negotiators to discuss the disposition and leaseback of real property as follows:*

Property: 939 Ellis Street, San Francisco, CA

Air District Negotiators: Jack P. Broadbent, Executive Officer/APCO
Jeffrey McKay, Deputy Air Pollution Control Officer
Tom Christian, Cassidy Turley
Ric Russell, Cassidy Turley

Negotiating Parties: Columbia Pacific Real Estate Fund I, L.P.

Under Negotiation: Price and Terms

OPEN SESSION

PUBLIC COMMENT ON NON-AGENDA MATTERS

16. **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

17. *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

18. Report of the Executive Officer/APCO
19. Chairperson's Report
20. Time and Place of Next Meeting: *Wednesday, April 2, 2014, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.*
21. Adjournment

**CONTACT THE CLERK OF THE BOARDS
939 ELLIS STREET SF, CA 94109**

**(415) 749-5073
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.

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET, SAN FRANCISCO, CALIFORNIA 94109
FOR QUESTIONS PLEASE CALL (415) 749-5016 or (415) 749-4941**

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

MARCH 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	17	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Stationary Source Committee <i>(Meets Quarterly at the Call of the Chair)</i> - CANCELLED	Monday	17	10:00 a.m.	4 th Floor Conf. Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	19	9:45 a.m.	Board Room
Board of Directors Climate Protection Committee <i>(Meets on the 3rd Thursday of Every Other Month)</i>	Thursday	20	9:30 a.m.	Board Room
Board of Directors Personnel Committee <i>(At the Call of the Chair)</i>	Monday	24	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	26	9:30 a.m.	4 th Floor Conf. Room

VIDEOCONFERENCE LOCATION:
Santa Rosa Junior College Doyle
Library Room 4243
1501 Mendocino Avenue
Santa Rosa, CA 95401

Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i> - CANCELLED	Thursday	27	9:30 a.m.	Board Room
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APRIL 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	2	9:45 a.m.	Board Room
Board of Directors Legislative Committee <i>(At the Call of the Chair)</i>	Thursday	3	10:00 a.m.	4 th Floor Conf. Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	9	9:00 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	16	9:45 a.m.	Board Room

APRIL 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Executive Committee <i>(Meets on the 3rd Monday of each Month)</i>	Monday	21	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	23	9:30 a.m.	4 th Floor Conf. Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	24	9:30 a.m.	Board Room

MAY 2014

<u>TYPE OF MEETING</u>	<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>ROOM</u>
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	7	9:45 a.m.	Board Room
Advisory Council Regular Meeting <i>(Meets on the 2nd Wednesday of each Month)</i>	Wednesday	14	9:00 a.m.	Board Room
Board of Directors Climate Protection Committee <i>(Meets 3rd Thursday of every other month at 9:30 a.m.)</i>	Thursday	15	9:30 a.m.	Board Room
Board of Directors Executive Committee <i>(Meets on the 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 Quarterly at the Call of the Chair)</i>	Monday	19	10:00 a.m.	Board Room
Board of Directors Regular Meeting <i>(Meets on the 1st & 3rd Wednesday of each Month)</i>	Wednesday	21	9:45 a.m.	Board Room
Board of Directors Mobile Source Committee <i>(Meets on the 4th Thursday of each Month)</i>	Thursday	22	9:30 a.m.	Board Room
Board of Directors Budget & Finance Committee <i>(Meets on the 4th Wednesday of each Month)</i>	Wednesday	28	9:30 a.m.	4 th Floor Conf. Room

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 3, 2014

Re: Minutes of the Board of Directors Regular Meeting of February 19, 2014

RECOMMENDED ACTION

Approve the attached draft minutes of the Board of Directors Regular Meeting of February 19, 2014.

DISCUSSION

Attached for your review and approval are the draft minutes of the Board of Directors Regular Meeting of February 19, 2014.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Rex Sanders

Attachments

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-5073

Board of Directors Regular Meeting
Wednesday, February 19, 2014

DRAFT MINUTES

CALL TO ORDER: Chairperson Nate Miley called the meeting to order at 9:50 a.m.

ROLL CALL:

Present: Chairperson Nate Miley; Vice-Chairperson Carole Groom; Secretary Eric Mar; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, Cindy Chavez, Scott Haggerty, David Hudson, Ash Kalra, Roger Kim (on behalf of Edwin Lee), Carol L. Klatt, Liz Kniss, Jan Pepper, Mary Piepho, Mark Ross, Brad Wagenknecht and Shirlee Zane.

Absent: Directors John Gioia, Tim Sbranti (resigned) and Jim Spering.

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

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

CONSENT CALENDAR (ITEMS 1 – 10)

1. **Minutes of the Board of Directors (Board) Special Meeting/Retreat of January 15, 2014;**
2. **Board Communications Received from January 15, 2014 through February 18, 2014;**
3. **Air District Personnel on Out-of-State Business Travel;**
4. **Quarterly Report of California Air Resources Board (ARB) Representative – Honorable John Gioia;**
5. **Quarterly Report of Executive Office and Division Activities;**
6. **Notice of Violations Issued and Settlements in Excess of \$10,000 in January 2014;**
7. **Set a Public Hearing for March 19, 2014 to Consider Proposed Regulation 14, Rule 1: Bay Area Commuter Benefits Program; and Approval of a California Environmental Quality Act Negative Declaration;**
8. **Notice of Proposed Amendments to the Air District's Administrative Code, Operating Policies and Procedures for the Board Division I: Section 8, Hearing Board, Section 8.6, Limits on Term of Office;**
9. **Consideration to Authorize Purchase Order in Excess of \$70,000 for Development of an Engineering Permit Training Program; and**
10. **Consideration of Establishing a New Job Classification of Communications Officer.**

Board Comments: None.

Public Comments: None.

Board Action:

Director Wagenknecht made a motion to approve Consent Calendar Items 1 through 10, inclusive; Director Ross seconded; and the motion carried by the following vote of the Board:

AYES: Adams, Avalos, Barrett, Bates, Chavez, Groom, Haggerty, Hudson, Kim, Klatt, Kniss, Mar, Miley, Pepper, Piepho, Ross, Wagenknecht and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Gioia, Kalra, Sbranti and Spering.

COMMITTEE REPORTS AND RECOMMENDATIONS

11. Report of the Budget and Finance Committee (BFC) Meeting of January 22, 2014 Committee Chairperson Groom

The BFC met on Wednesday, January 22, 2014, and approved the minutes of August 5, 2013.

The BFC received the auditor presentation regarding the Air District Financial Audit Report for Fiscal Year Ending (FYE) 2013. The BFC first reviewed the Financial Audit Report of the Air District's Financial Statements for FYE 2013, an unqualified report with no reportable conditions, then the Financial Audit Report of the OMB Circular A-133, also an unqualified report with no reportable conditions.

The BFC then received and discussed the staff presentation *Second Quarter Financial Report – FYE 2014*, including overviews of general fund revenues, expenses and fund balances; a year-to-year comparison and summaries of purchasing reporting requirements; and cumulative vendor payments in excess of \$70,000.

The BFC also received and discussed the staff presentation *Air District Financial Overview*, including a review of the status of the prior fiscal year, a mid-year summary of FYE 2014, and a review of the budget topics and highlights for the upcoming FYE 2015 budget process.

The next meeting of the BFC is Wednesday, March 26, 2014, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action: None; receive and file.

12. Report of the Mobile Source Committee (MSC) Meeting of January 23, 2014

Committee Chairperson Haggerty

The MSC met on Thursday, January 23, 2014, and approved the minutes of October 24, 2013 and December 5, 2013.

The MSC reviewed Projects with Proposed Grant Awards Over \$100,000 and recommends the Board:

1. Approve a total of five projects for the replacement of twenty off-road diesel-powered tractors, two off-road diesel-powered loaders, and three diesel-powered airport ground support baggage tows, all of which are in Sonoma County except the three airport ground support baggage tows in Santa Clara County; and
2. Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended Carl Moyer Program (CMP) projects.

The MSC then reviewed a request for Participation in Year 16 of the CMP and recommends the Board:

1. Adopt a resolution authorizing the Executive Officer/Air Pollution Control Officer (APCO) to execute all necessary agreements with the ARB relating to the Air District's receipt of CMP funds for fiscal year 2013-2014 (Program Year 16); and
2. Allocate \$5 million in Mobile Source Incentive Funding to provide the required match funding and additional monies for projects eligible for funding under the CMP.

The MSC then reviewed and discussed the staff presentation *Overview of Transportation Fund for Clean Air Policies*, including background information, Transportation Fund for Clean Air funding allocations from 1992 through 2013, summaries of key policies, a review of project useful life and cost-effectiveness, summaries of emissions standards for heavy-duty diesel vehicles and the effect of changing cost-effectiveness standards on projects.

The next meeting of the MSC is on Thursday, February 27, 2014, at 9:30 a.m.

Board Comments:

The Board and staff discussed the violation rates in Sonoma County, enhanced Air District outreach to the Sonoma County agricultural community, and treating Bay Area airports like ports in terms of engaging emissions reductions.

Public Comments: None.

Board Action:

Director Haggerty made a motion to approve the recommendations of the MSC; Director Piepho seconded; and the motion carried by the following vote of the Board:

AYES: Adams, Avalos, Barrett, Bates, Chavez, Groom, Haggerty, Hudson, Kim, Klatt, Kniss, Mar, Miley, Pepper, Piepho, Ross, Wagenknecht and Zane.

NOES: None.

ABSTAIN: None.

ABSENT: Gioia, Kalra, Sbranti and Spring.

PRESENTATION

13. Overview of Air District's Rules and Regulations

Jack Broadbent, Executive Officer/APCO, introduced Brian Bunger, District Counsel, who gave the staff presentation *Overview of Air District Regulations and Rules*, including background, sources of regulations and rules, other applicable requirements, organization, and a review of the rules.

NOTED PRESENT: Director Kalra was noted present at 10:05 a.m.

Board Comments:

The Board and staff discussed the applicability of the Regulation 2, Rule 10, Large Confined Animal Facilities within the Bay Area; the applicable rules governing asbestos; solid waste organic compounds; how numerous rules are applied to one subject facility; how the rules have been applied to large-scale gas dispensing facilities; how the rules are applied, if at all, to outdoor operations for marijuana-growing and similar odorous substances; and the applicability of public nuisance laws to residential wood smoke.

Director Zane asked staff to provide her with information on all of the violations issued by the Air District in Sonoma County relative to landfill or compost facilities for the last five years.

Director Pepper asked for more information on how numerous rules are applied to one subject facility.

Public Comments: None.

Board Action: None; receive and file.

CLOSED SESSION

The Board adjourned to Closed Session at 10:56 a.m.

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

Pursuant to Government Code Section 54956.9(a), the Board met in closed session to discuss with legal counsel 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; California Supreme Court, Case No. S214378.

15. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section 54956.8)

Pursuant to Government Code Section 54956.8, the Board met in closed session to confer with real property negotiators to discuss the disposition and leaseback of real property as follows:

Property:	939 Ellis Street, San Francisco, CA
Air District Negotiators:	Jack P. Broadbent, Executive Officer/APCO Jeffrey McKay, Deputy APCO Tom Christian, Cassidy Turley Ric Russell, Cassidy Turley
Negotiating Parties:	Columbia Pacific Real Estate Fund I, L.P.
Under Negotiation:	Price and Terms

OPEN SESSION

The Board resumed Open Session at 11:26 a.m. with no reportable action.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS' COMMENTS: None.

OTHER BUSINESS

16. Report of the Executive Officer/APCO:

Mr. Broadbent presented a summary of the Winter Fine Particulate Matter Season and gave a brief overview of some of the items the Board will see in the coming months.

Director Zane asked about the advisability of doing a study or assessment of the violations, particularly in the outer regions of the Bay Area, and a discussion about contracting with local law enforcement agencies to assist with the enforcement of Air District regulations.

17. Chairperson's Report:

Chairperson Miley congratulated Director Kniss on her re-appointment to the Board; announced the 2014 AltCar Expo on Friday, March 14 and Saturday, March 15, as sponsored by the Air District among others; announced the formation of an Ad Hoc Building Move Oversight Committee of the Board to provide input and oversight for the upcoming Air District headquarters move to 375 Beale Street and constituted by Chair Miley, Vice-Chair Groom, Secretary Mar, and Directors Haggerty, Kalra and Spring,; and the cancellation of the Board meeting on March 5, 2014.

18. Time and Place of Next Meeting:

Wednesday, March 19, 2014, Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.

19. Adjournment: The Board meeting adjourned at 11:32 a.m.

Sean Gallagher
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 10, 2014

Re: Board Communications Received from February 19, 2014 through March 18, 2014

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

Copies of communications directed to the Board of Directors received by the Air District from February 19, 2014 through March 18, 2014, if any, will be at each Board Member's place at the March 19, 2014 Board meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Maricela Martinez
Reviewed by: Rex Sanders

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 19, 2014

Re: Air District Personnel on Out-of-State Business Travel

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 is hereby notified of District personnel who have traveled on out-of-state business.

The report covers the out-of-state business travel for the month of February 2014. The monthly out-of-state business travel report is presented in the month following travel completion.

DISCUSSION

No out-of-state business travel activities occurred in the month of February 2014.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 10, 2014

Re: Notices of Violation Issued and Settlements in Excess of \$10,000 in February 2014

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

In accordance with Resolution No. 2012-08, attached to this Memorandum is a listing of all Notices of Violation issued, and all settlements for amounts in excess of \$10,000 during the calendar month prior to this report.

BUDGET CONSIDERATION/FINANCIAL IMPACT

The amounts of civil penalties collected are included in the Air District's general fund budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger

Attachments

NOTICES OF VIOLATION ISSUED

The following Notice(s) of Violation were issued in February 2014:

Alameda						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Mission Foods	A9405	Hayward	A50210A	2/6/14	2-1-307	Violation of permit condition. Excess NOx emissions.

Contra Costa						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
John Muir Medical Center	B0742	Walnut Creek	A53087A	2/10/14	2-1-307	CO emissions > 100ppm
Shell Martinez Refinery	A0011	Martinez	A52643A	2/4/14	2-6-307	COB#3 opacity due to D-field failure in ESP.
Solvay USA Inc	B1661	Martinez	A52645A	2/4/14	2-6-307	PC #17734 part 17a, pH excursion <5
ST Shore Terminals LLC	A0581	Crockett	A52969A	2/25/14	8-33-309	Reg 8-33-309.8 - Missed weekly inspections at hose connector & PVV
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52984A	2/11/14	2-6-307	PC #23129.12.B exceeded 50 ppm CO 3 hour average
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52985A	2/18/14	9-1-307	Exceeded 250 ppm SO2 one hour standard
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52986A	2/18/14	9-1-309	exceeded 250 ppm SO2 during 4 hour start up
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52987A	2/18/14	10	10-40CFR-60.104-A-1: Exceeded 162 ppm H2S 3 hour average.

Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52988A	2/18/14	6-1-302	Opacity exceeded 30% for over 6 minutes at per hour.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52989A	2/18/14	10	10-40CFR-60.104-A-1: Exceeded 162 ppm H2S 3 hour average.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A52990A	2/18/14	10	10-40CFR-60.104-A-1: Exceeded 162 ppm H2S 3 hour average.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53062A	2/14/14	2-6-307	>20 ppm NH3 Failed ST #OS-4783
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53063A	2/14/14	2-6-307	>35 ppm CO/3 hr Av E06M41
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53064A	2/14/14	9-2-301	H2S GLM Excess.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53065A	2/14/14	9-1-307	SO2 Excess.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53066A	2/14/14	9-2-301	H2S GLM Excess.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53067A	2/14/14	2-6-307	Failed Source Test P/C Violation.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53067B	2/14/14	8-33-309	8-33-309.5: Reg 8 Rule 33 failed Source Test.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53069A	2/27/14	1-523.1	Late report Inop Para - 06N22
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53071A	2/27/14	2-6-307	Failure to meet Permit Condition - 3 missed Source Tests.
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53146A	2/13/14	2-6-307	SO2 >PC 11433 part 8 (06G50)
Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53148A	2/13/14	8-5-307	8-5-307.3 Pressure relief device leaking >500 ppm

Tesoro Refining & Marketing Company LLC	B2758	Martinez	A53149A	2/13/14	8-5-307	8-5-307.3 PRD leaking greater than 500 ppm
Tesoro Refining and Marketing Company LLC	B2759	Martinez	A53147A	2/13/14	8-5-322.4	No sealing tips on secondary seal
VA Medical Center	A4096	Martinez	A53085A	2/4/14	2-1-307	No annual tuning
VA Medical Center	A4096	Martinez	A53086A	2/4/14	2-1-307	No annual tuning

Marin						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Louis/Jean Vaccaro	W3974	Fairfax	A53499A	2/5/14	6-3-301	Wood smoke violation
Recipient	W4333	Forest Knolls	A53384A	2/27/14	6-3-301	Wood smoke violation
Recipient	W4334	Forest Knolls	A53385A	2/27/14	6-3-301	Wood smoke violation
Recipient	W3983	Forest Knolls	A53389A	2/4/14	6-3-301	Wood smoke violation
Recipient	W3969	Woodacre	A53498A	2/4/14	6-3-301	Wood smoke violation
Recipient	W3983	Forest Knolls	A53545A	2/5/14	6-3-301	Wood smoke violation
Recipient	W4301	Lagunitas	A53560A	2/25/14	6-3-301	Wood smoke violation
Recipient	W4319	Forest Knolls	A53561A	2/26/14	6-3-301	Wood smoke violation

San Mateo						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Browning-Ferris Industries of CA, Inc	A2266	Half Moon Bay	A52298A	2/6/14	2-6-307	Permit condition #10164 TRS standard exceeded Source test #OS-4822 and late reporting
Recipient	W3181	Menlo Park	A53540A	2/4/14	6-3-301	Wood smoke violation

Santa Clara						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
John/Genine Borrelli	W3980	San Jose	A53518A	2/5/14	6-3-301	Wood smoke violation

Solano						
Site Name	Site #	City	NOV #	Issuance Date	Regulation	Comments
Gilroy Energy Center, LLC (Wolfskill Energy Ctr)	B4511	Fairfield	A53405A	2/13/14	2-6-307	RCA #06N10 Ammonia slip excess 12.6 ppmvd
Valero Refining Company - California	B2626	Benicia	A53242A	2/5/14	2-6-307	(OS-4823/OS-4824) - NMOC >15 lbs/day
Valero Refining Company - California	B2626	Benicia	A53243A	2/5/14	8-5-306	8-5-306.2 P/V valves leaking >500 ppm (not gas-tight)

SETTLEMENTS FOR \$10,000 OR MORE REACHED

There was 1 settlement(s) for \$10,000 or more completed in February 2014.

On February 28, 2014, the District reached a settlement with Phillips 66 Company for \$230,900, regarding the allegations contained in the following 19 Notices of Violation:

NOV #	Issuance Date	Occurrence Date	Regulation	Comments from Enforcement
A49240A	8/11/08	10/27/07	8-8-313	8-8-313.2. Uncontrolled drain components>3 leaks in 5 yr period & not equipped w/ controls; Dev#1842
A49458A	1/26/09	10/3/08	2-6-307	2-6-307. CO excess cond 1694 E4 associated w/ BO5J13 E05J17.
A50238A	7/22/09	3/14/09	12-11-501	Anemometer out of spec,no flare samples,notification.BAAQMD Deviation#2149.CoP Deviation#016-09.
A50238B	7/22/09	3/14/09	12-11-502.3.1	Anemometer out of spec. Violation 12-11-506.1 has subsequently been determined to be incorrect.
A50240A	7/24/09	7/23/09	8-18-301	Leak > 100 ppm found at venturi eductor on B-201 Heater.
A50241A	8/4/09	7/13/09	8-5-304	8-5-304.4 Liquid tank contents on top of floating roof.
A50242A	8/18/09	7/29/09	8-18-301	Leak>100 ppm found @ water leg (General Equipment).
A50243A	8/18/09	12/20/08	2-6-307	Failed to meet permit condition #1694-C2 COP Deviatoin #083-08, BAAQMD Dev#2068.
A50244A	9/15/09	6/10/09	2-6-307	Failed to meet permit condition 1440-4a,1440-4b. BAAQMD deviation#2229. COP#033-09.
A50245A	9/15/09	9/15/09	2-6-307	Failed to meet permit condition 1440-4b.
A50246A	10/16/09	11/28/08	10	Open ended lines; violation of 40 CFR 60.482.6a. COPdeviation#0808-08. BAAQMD deviation#2044.
A50247A	1/7/10	9/10/09	10	40CFR63.119(c)(2)(iii) Open vacuum breaker valves on Tank 243 BAAQMD Deviation #1823 COP Dev. #55-09
A50248A	1/26/10	9/27/09	2-6-307	Failed to meet permit condition #22962.4a. BAAQMD Deviation #2327, CoP Deviation#070-09.
A50249A	2/4/10	12/1/09	2-6-307	Failed to meet P/C #1440-4a; 1440-4b. BAAQMD deviation#2383; CoP deviation #092-09.
A50250A	2/4/10	11/22/08	8-8-313	8-8-313.2 Unit 100 waste water components not tagged &/or missed inspections.BAAQMD#2046.CoP#076-08.

A51251A	2/5/10	9/23/09	12-11-501	BAAQMD Deviation #2322 COP #066-09
A51251B	2/5/10	9/23/09	12-11-502.3.1	BAAQMD Deviation #2322 COP #066-09
A51253A	2/25/10	8/10/09	10	40 CFR 60.104(a)(1)-fuel gas > .10gr/dscf(162ppm)/3 hrs RCA#05N71 ConocoPhillips deviation#047-09
A51254A	3/8/10	9/9/09	1-510	Failure to maintain Crockett H2S GLM
A51255A	3/8/10	10/15/09	9-1-307	SO2 > 250ppm 1hr. RCA#05P74 COP Deviation #078-09
A51261A	6/30/10	10/7/09	2-6-307	Failure to meet permit condition #21235.6a RCA#05P58

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 10, 2014

Re: Referral of Proposed Budget for Fiscal Year Ending (FYE) 2015 to the Budget &
Finance Committee

RECOMMENED ACTION

Refer proposed operating budget for FYE 2015 to the Budget and Finance Committee for review and consideration.

BACKGROUND

Pursuant to Administrative Code Division II, Section 3.2 Fiscal Policies and Procedures and in compliance with Health and Safety Code Section 40276, the Executive Officer/APCO requests that the Board of Directors refer the proposed budget for FYE 2015 to the Budget and Finance Committee for review and consideration.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Stephanie Osaze
Reviewed by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 10, 2014

Re: Adoption of Amendments to the Air District's Administrative Code Division I:
Operating Policies and Procedures for the Hearing Board - Section 8.6 Limits on
Term of Office

RECOMMENDED ACTION

The Board of Directors will consider adopting amendments to the Air District's Administrative Code, Division I: Operating Policies and Procedures of the Board of Directors, Section 8, Hearing Board, Section 8.6: Limits on Term of Office.

BACKGROUND

The California Health and Safety Code §40800: Existence of hearing boards; Appointment of Alternates requires that the Air District maintain a five member Hearing Board to hear requests for variances, requests from the Air District for orders of abatement, and appeals of permits. The Air District's Administrative Code Division I: Operating Policies and Procedures for the Hearing Board – Section 8.6 Limits on Term of Office currently provides that members of the Air District's Hearing Board with twelve (12) consecutive years of service shall not be reappointed to the Hearing Board. This provision further provides that a person may once again be appointed after an absence of three years from the Hearing Board.

Last year, two members of the Hearing Board, who had long served as the Chair and Vice Chair of the Hearing Board reached these term limits and in April 2014, two additional members, who are currently serving as Chair and Vice-Chair of the Hearing Board will reach the term limits. This has created a situation in which a substantial amount of institutional knowledge and continuity will be lost in this vital quasi-judicial function. In order to ensure that the knowledge of these members is not lost and to provide continuity to the Hearing Board, Air District staff is recommending that the Hearing Board term limit provision in the District's Administrative Code be amended to provide for maximum terms of fifteen (15) years.

DISCUSSION

In accordance with Administrative Code Section 14.1, Amendments Mechanism, notice of these proposed amendments was given at the regular meeting of the Board of Directors on February 19, 2014.

The proposed amendments to the Administrative Code are attached for your review and consideration.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian C. Bunger

Reviewed by: Rex Sanders

Attachment

8.6 LIMITS ON TERM OF OFFICE. (Revised ~~3/16/94~~_____)

Effective with appointments for terms on the Hearing Board commencing on ~~May 1, 1994~~ April 1, 2014, and thereafter, members with ~~twelve~~ fifteen (12 15) consecutive years of membership on the Hearing Board shall not be re-appointed to the Hearing Board, without exception. A member not re-appointed because of having served ~~twelve~~ fifteen (12 15) consecutive years on the Hearing Board shall again be eligible for appointment after an absence of three years from the Hearing Board.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 10, 2014

Re: Set a Public Hearing for April 16, 2014 to Consider Adoption of Proposed
Amendments to Regulation 3: Fees and Approval of a Notice of Exemption from the
California Environmental Quality Act (CEQA)

RECOMMENDED ACTION

Set a public hearing for April 16, 2014 to receive testimony and June 4, 2014 to consider adoption of proposed amendments to Air District Regulation 3: Fees and to consider approval of a Notice of Exemption from CEQA.

DISCUSSION

A public hearing notice and the proposed amendments to Regulation 3 are available for review by request and have been posted on the Air District's website at http://www.baaqmd.gov/pln/ruledev/regulatory_public_hearings.htm.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

The draft fee amendments would increase fee revenue in Fiscal Year Ending (FYE) 2015 by approximately \$2.7 million from revenue that would otherwise result without a fee increase.

Fee revenue estimates will be included in the draft FYE 2015 budget.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jim Karas
Reviewed by: Jeffrey McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 3, 2014

Re: Report of the Stationary Source Committee Meeting of February 24, 2014

RECOMMENDED ACTION

The Stationary Source Committee (Committee) received only informational items and has no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee met on Monday, February 24, 2014, and received the following reports:

- A) Discussion of Lehigh Southwest Cement Compliance with Regulation 9, Rule 13;
- B) Update on Sims Metal Management Facility; and
- C) Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking.

Attached are the staff reports presented in the Committee packet.

Committee Chairperson John Gioia will provide an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

- A) None.
- B) None.
- C) None. Staff intends on proposing a new fee schedule in order to recover the Air District's costs of developing and implementing the new rule.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Rex Sanders

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 24, 2014

Re: Discussion of Lehigh Southwest Cement Compliance with Regulation 9, Rule 13

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Lehigh Southwest Cement Plant is located in unincorporated Cupertino at the end of Stevens Creek Boulevard. The facility excavates limestone from an on-site quarry for use as a raw material in cement manufacturing. The limestone, and other raw materials, are crushed into a fine powder and blended in the correct proportions. This blended raw material is heated in a pre-heater and rotary kiln where it reaches temperatures of about 2,800 degrees Fahrenheit. The fuel used to heat the kiln is currently petroleum coke. The material formed in the kiln, known as “clinker”, is cooled and then ground and blended with gypsum to form Portland cement. In addition to cement, the facility also produces and sells construction aggregates.

On September 9, 2013, Lehigh Southwest Cement Company became subject to the requirements of Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter, and Toxic Air Contaminants from Portland Cement Manufacturing.

DISCUSSION

Staff will provide an overview of Lehigh Southwest Cement Company’s compliance status with Regulation 9, Rule 13: Nitrogen Oxides, Particulate Matter, and Toxic Air Contaminants from Portland Cement Manufacturing.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 24, 2014

Re: Update on Sims Metal Management Facility

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On November 12 and December 17, 2013, fires occurred at the Sims Metal Management facility, located at 699 Seaport Blvd., Redwood City. This facility is a scrap metal processing facility that shreds cars and appliances for recycle. The fires occurred in the pile of non-automobile scrap materials that were waiting to be shredded.

DISCUSSION

Air District staff will provide the Committee with an update of the current status of this facility.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Jeff McKay

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson John Gioia and Members
of the Stationary Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 14, 2014

Re: Update on the Development of Regulation 12, Rule 15: Petroleum Refining
Emissions Tracking

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On October 17, 2012, the Board of Directors approved staff's *Work Plan for Action Items Related to Accidental Releases from Industrial Facilities* that included, among the key actions, the development of a new rule that would apply to Bay Area petroleum refineries. The new rule is intended to address potential increases in air emissions from Bay Area petroleum refineries that might occur over time, including emission increases associated with the use of lower quality crude slates. The proposed regulatory approach involves the following basic elements:

- Establish existing baseline air emissions from each refinery (i.e., the quantities of various air pollutants that are emitted);
- Track the quantity of air emissions from each refinery in the future on an on-going basis;
- If air emissions from a refinery increase above baseline levels (in an amount that exceeds specified trigger-levels), require that the cause(s) of the emissions increase be identified, and a plan prepared and implemented to reduce emissions; and
- Establish fence-line and community air monitoring systems to better understand and track the impact that refinery emissions have on local air quality.

DISCUSSION

In this report, staff will provide the Committee with an update on the development of the new Petroleum Refining Emissions Tracking rule, including:

- The rule development activities and stakeholder outreach completed to date.
- The elements of the initial draft rule issued by staff in March 2013.
- Public comments received on the initial draft rule and preliminary staff responses to these comments.
- Proposed changes to the draft rule in response to comments received.

- The rule development work that remains to be done and the expected completion schedule.

BUDGET CONSIDERATIONS/FINANCIAL IMPACT

None. Staff intends on proposing a new fee schedule in order to recover the Air District's costs of developing and implementing the new rule.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Brian Bateman
Reviewed by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 3, 2014

Re: Report of the Mobile Source Committee Meeting of February 27, 2014

RECOMMENDED ACTION

The Mobile Source Committee (Committee) recommends Board of Directors' approval of the following items:

- A) Fiscal Year Ending (FYE) 2014 Transportation for Clean Air (TFCA) Regional Fund Shuttle and Rideshare Projects:
1. Approve awards for the TFCA Shuttle, Ridesharing and Vanpool projects listed in Attachment A to the Committee staff report; and
 2. Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into agreements for the recommended TFCA projects on Attachment A to the Committee staff report in the amount of \$3,732,038.
- B) None. Informational item, receive and file.
- C) On-Road Truck Replacement Funding:
1. Approve changes to the FYE 2014 TFCA Regional Fund Policies to include on-road truck replacement projects as an eligible project type;
 2. Allocate \$5 million in TFCA Regional Funds for eligible projects submitted as part of the Year 4 Goods Movement Program; and
 3. Authorize the Executive Officer/APCO to enter into contracts for eligible projects.

BACKGROUND

The Committee met on Thursday, February 27, 2014, and received the following reports and recommendations:

- A) FYE 2014 TFCA Regional Fund Shuttle and Rideshare Projects;

B) Air District Grant Programs Overview; and

C) On-Road Truck Replacement Funding.

Attached are the staff reports that were presented in the Committee packet.

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

BUDGET CONSIDERATION/FINANCIAL IMPACT

A) None. The Air District distributes program monies as “pass-through” funds on a reimbursement basis. Administrative costs for project staffing are provided by the Air District’s TFCA.

B) None.

C) None. The Air District receives funding for the administration of incentives under the TFCA program.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher
Reviewed by: Rex Sanders

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Scott Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 18, 2014

Re: Fiscal Year Ending (FYE) 2014 Transportation for Clean Air (TFCA) Regional
Fund Shuttle and Rideshare Projects

RECOMMENDATIONS:

Recommend the Board of Directors:

1. Approve awards for the TFCA Shuttle, Ridesharing and Vanpool projects listed in Attachment A.
2. Authorize the Executive Officer/APCO to enter into agreements for the recommended TFCA projects on Attachment A in the amount of \$3,732,038.

BACKGROUND

Since 1991, the Transportation Fund for Clean Air (TFCA) program has funded projects that achieve surplus emission reductions from on-road motor vehicles. Sixty percent (60%) of TFCA funds are awarded directly by the Air District to eligible programs implemented directly by the Air District (Spare the Air Program) and through a grant program known as the Regional Fund, which is allocated on a competitive basis to eligible projects proposed by project sponsors. Funding for the TFCA program is provided by a \$4 surcharge on motor vehicles registered within the San Francisco Bay Area as authorized by the California State Legislature. The statutory authority for the TFCA and requirements of the program are set forth in California Health and Safety Code Sections 44241 and 44242.

DISCUSSION

The Air District's Board of Directors allocated up to \$4 million for a Shuttle, Ridesharing, and Vanpool Program on June 5, 2013. The Board of Directors subsequently approved Policies and Evaluation Criteria for this program on November 6, 2013. The Air District opened a call for projects on November 20, 2013, and held grant application workshops in San Francisco on December 4, 2013, and in Oakland on December 10, 2013. The workshop held on December 4 was also broadcast as an online webinar.

The call for projects closed on December 30, 2013, and applications for 14 projects were received by the due date. Applications are evaluated for conformance with Board approved Policies and Evaluation Criteria and eligible projects were ranked based on their cost-

effectiveness. Additionally, 60% of funding was reserved for projects that are located in Highly Impacted Communities (HIC), as defined in the Air District's CARE Program, and in Priority Development Areas (PDA), and that reduce greenhouse gasses (GHG).

Of the 14 applications that were received, a total of ten projects were determined to meet Board-approved policies. Of these, seven projects are being recommended for award at the full request amount (totaling \$3,521,518) and three projects are recommend at a reduced award amount (totaling \$210,520) in order to meet the Board approved cost-effectiveness criteria. These ten projects will result in the combined reduction of over 66 tons of NOx, ROG and PM and 33,048 tons of greenhouse gas. Staff recommends awarding \$3,732,038 to these projects from FYE 2014 TFCA Regional Funds. Attachment A to this staff report provides additional information on these projects.

Four projects are not recommended for funding because 1) they are not cost-effective at any dollar amount, 2) the proposed service duplicates existing transit service, and/or 3) the cost-effectiveness could not be determined due to the application being incomplete. A listing of the projects that are not recommended for funding is included in Attachment B.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Air District distributes program monies as "pass-through" funds on a reimbursement basis. Administrative costs for project staffing are provided by the Air District's Transportation Fund for Clean Air.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Avra Goldman
Michael Neward
Reviewed by: Karen Schkolnick

Attachment A: Projects Recommended for Award - FYE 2014 Regional Fund TFCA Shuttle, Ridesharing and Vanpool

Attachment B: Projects Not Recommended for Award

ATTACHMENT A: Projects Recommended for Award - FYE 2014 Regional Fund TFCA Shuttle, Ridesharing, and Vanpool

Projects Recommended for Award														
Project #	Project Sponsor	Proposed Project Title	TFCA Regional Funds Requested	CE of Funds Requested	Proposed Award	PUL (Yrs.)	Est. C-E	ROG	NOx	PM	CO2	County	Project Type	CARE AREA
14R18	Associated Students, San Jose State University	SJSU Ridesharing & Trip Reduction Program	\$ 120,000	\$ 14,675	\$ 120,000	1	same	1.87	1.88	1.81	2,784	SC	RR	NO
14R17	Metropolitan Transportation Commission	511 Rideshare Program	\$ 1,000,000	\$ 22,361	\$ 1,000,000	1	same	10.42	9.48	11.33	16,437	REG	RR	NO
14R13	San Francisco Municipal Transportation Agency	82X Levi Express Shuttle	\$ 122,000	\$ 37,393	\$ 122,000	1	same	0.64	0.42	0.92	1,349	SF	S-E	YES
14R14	Peninsula Corridor Joint Powers Board	Caltrain Shuttle Program (28 Routes)	\$ 1,000,000	\$ 45,162	\$ 1,000,000	1	same	4.87	4.95	5.33	6,298	SM	S-E	NO
14R08	Presidio Trust	PresidiGo Downtown Shuttle	\$ 100,000	\$ 75,106	\$ 100,000	1	same	0.35	0.22	0.32	360	SF	S-E	YES
14R07	City of Oakland	Broadway Shuttle	\$ 219,518	\$ 75,637	\$ 219,518	1	same	0.68	0.58	0.67	961	ALA	S-E	YES
14R16	Santa Clara Valley Transportation Authority	ACE Shuttle Bus Program (8 Routes)	\$ 960,000	\$ 88,366	\$ 960,000	1	same	2.20	2.48	2.61	3,643	SC	S-E	NO
Projects Recommended for Reduced Award														
Project #	Project Sponsor	Proposed Project Title	TFCA Regional Funds Requested	CE of Funds Requested	Proposed Award	PUL (Yrs.)	Est. C-E	ROG	NOx	PM	CO2	County	Project Type	CARE AREA
14R12	Altamont Corridor Express	Routes 53 & 54 ¹ (2 Routes)	\$ 94,000	\$ 119,003	\$ 50,600	1	\$ 89,906	0.33	0.23	0.41	501	ALA	S-E	NO
14R09	Alameda County	Bay Fair BART Shuttle ¹	\$ 131,527	\$ 721,579	\$ 16,400	1	\$ 89,973	0.04	0.02	0.04	43	ALA	S-E	YES
14R11	City of Richmond	Commuter Shuttle ^{2,3} (2 Routes)	\$ 224,640	\$ 147,914	\$ 143,520	1	\$ 131,360	0.34	0.35	0.34	672	CC	S-Pilot	YES
Total			\$ 3,971,685		\$ 3,732,038			21.74	20.61	23.78	33,048			

Project Tyes: (RR) = Regional Rideshare, (S-E) = Existing Shuttle, (S-Pilot) = New Shuttle Service

¹ Reduced funding to make project C/E

² CARE Area Pilot Project

³ Partial funding - Portions of one route duplicate existing service

ATTACHMENT B: Projects Not Recommended for Award

Project Sponsor	Proposed Project Title	TFCA Regional Funds Requested	PUL (Yrs.)	C-E	ROG	NOx	PM	CO2	County	Project Type	CARE AREA
Town of Colma	Colma BART Shuttle ¹	\$ 26,814	1	\$ 105,450	0.06	0.06	0.06	87	SM	Pilot Shuttle Service	NO
Golden Gate Bridge, Highway & Transportation District	"The Wave" Ferry Feeder Service ²	\$ 168,100	1	\$ (562,606)	-0.04	-0.38	0.06	-27	MAR	Pilot Shuttle Service	NO
San Francisco Municipal Transportation Agency	University of California, San Francisco Mission Bay Shuttle ^{1,3}	\$ 190,000	1	CBD	-	-	-	-	SF	Pilot Shuttle Service	YES
San Francisco District Attorney's Office	Shuttle Service ^{1,3}	\$ 236,159	1	CBD	-	-	-	-	SF	Pilot Shuttle Service	YES

¹ Route does not meet the TFCA FYE 2012 Criteria - Duplication of Service.

² Not cost effective at any Regional Fund amount

³ Incomplete application - Cost effectiveness cannot be determined

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Scott Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 20, 2014

Re: Air District Grant Programs Overview

RECOMMENDATIONS:

None. Informational item, receive and file.

BACKGROUND

As part of its efforts to reduce emissions from mobile sources, the Bay Area Air Quality Management District (Air District) allocated approximately \$80 million in funding during the 2013 calendar year. Approximately \$71 million of that funding was directly allocated by the Air District. The remaining \$9 million was distributed via the Transportation Fund for Clean Air (TFCA) County Program Manager program. The \$71 million allocated by the Air District came from four renewable funding sources: the California Goods Movement Bond, TFCA Regional Fund, Mobile Source Incentive Fund, and the Carl Moyer Program. These programs accumulate annually via fees and bond sales that are distributed to the Air District, and constitute the Air District's primary grant programs. Staff also seeks out additional funding opportunities to further reduce emissions from mobile sources in the Bay Area.

DISCUSSION

Since calendar year 2011, the Committee has received reports from staff on expenditures in various grant programs for the previous calendar year. This years report is based on total dollar allocations and projected emissions reductions for calendar year 2013 projects. The intention of this report is to provide the Committee a better overall indication of the total flow of funding in and out of the primary grants programs. This methodology allows staff to align the grant funding with future compliance dates set in airborne toxic control measures adopted by the California Air Resources Board and to present to the Committee anticipated needs for grant funding for this calendar year. Staff will also discuss with the Committee the anticipated challenges and projected funding for each of the Air District primary grant programs in calendar year 2014.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Anthony Fournier
Reviewed by: Damian Breen

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Scott Haggerty and
Members of the Mobile Source Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: February 20, 2014

Re: On-Road Truck Replacement Funding

RECOMMENDATIONS:

Recommend the Board of Directors:

1. Approve changes to the FYE 2014 Transportation Fund for Clean Air (TFCA) Regional Fund Policies to include on-road truck replacement projects as an eligible project type.
2. Allocate \$5 million in TFCA Regional Funds for eligible projects submitted as part of the Year 4 Goods Movement Program.
3. Authorize the Executive Officer/APCO to enter into contracts for eligible projects.

BACKGROUND

In December of 2008, the California Air Resources Board (ARB) approved the Truck and Bus regulation to significantly reduce Particulate Matter (PM), and oxides of nitrogen (NOx) emissions from diesel vehicles operating in California. The regulation applies to nearly all diesel-fueled trucks and buses weighing more than 14,000 pounds that are privately owned and includes privately and publicly owned school buses.

The regulation has different compliance schedules for trucks depending on their weight. Lighter trucks and buses weighing 14,001 to 26,000 pounds do not have compliance requirements until 1/1/15. Heavier (26,001 + pounds) trucks and buses have been subject to compliance requirements since 1/1/12. Staff estimates that there are more than 34,000 trucks in the Bay Area weighing over 26,001 lbs.

The regulation identifies two options (Phase-in option or the Model Year option) for compliance for trucks weighing over 26,001 lbs in fleets with 4 or more. Under the phase-in option retrofits are required on 90% of a fleet's trucks by 1/1/14. Under the model year schedule, trucks with 1996 to 2006 model year engines have to install a retrofit device by 1/1/14.

For small fleets (1 to 3 trucks), retrofits are required on one truck by 1/1/14, the second truck (if applicable) by 1/1/15, and the third truck (if applicable) by 1/1/16. All trucks will be required to have engines meeting the 2010 emissions standard by 1/1/23. It is estimated that approximately 6,000 trucks owned by small fleet operators had to come into compliance by 1/1/14.

DISCUSSION

Since 2009, the Air District has implemented several incentive programs to reduce emissions from Bay Area trucks and buses. Over the past four years these programs have provided approximately \$31.7 million to on-road truck owners in Northern California reducing over ninety tons of PM emissions.

On 10/29/13, ARB issued an Executive Order making changes to the requirements for the Proposition 1B Goods Movement Program. These changes created funding opportunities for fleets of three or fewer trucks. The Executive Order allows projects to be completed during 2014; allows older trucks to participate in the Goods Movement Program; prioritizes funding for small fleet projects; and, extends the application period for small fleets. Additionally, ARB issued a regulatory advisory on 11/11/13 that provides flexibility for truckers that allows them to get time extensions on the regulatory deadline based on good faith effort to comply with the rule requirements.

The ARB awarded the Air District \$14.5 million for truck replacement projects as part of the Year 4 Goods Movement Program funding cycle. Between 8/26/13 and 12/12/13 the Air District received applications for close to 800 trucks, requesting more than \$31 million in funding. Approximately 50% of the applications submitted were from fleets of three or fewer trucks. Staff is currently in the process of reviewing applications for completeness and eligibility. Applications will then be prioritized by project type/ fleet size, ranked by ARB, and will be funded in rank order until all funds have been awarded. Contracting is expected to begin during the spring of 2014, and trucks will be on the road by 12/31/14.

The demand for grant funding far exceeds the total amount of funds awarded by the ARB for the Year 4 Goods Movement Program. While there is a possibility additional ARB funding may become available later in the implementation process, there still will not be enough funding to replace all the trucks that applied. In order to replace more trucks, staff is proposing the allocation of \$5 million from the TFCA Regional Fund to replace on-road, Bay Area registered trucks that applied for funding under the Year 4 solicitation, and meet the Goods Movement Program requirements. In order to make these funds available, staff has proposed revisions to the FYE2014 TFCA Regional Fund Policies to include on-road truck replacement projects as an eligible project type. The proposed revisions to the FYE2014 Regional Fund Policies (Attachment 1) were sent out for public comment on January 24, 2014 and no comments were received.

BUDGET CONSIDERATION / FINANCIAL IMPACT:

None. The Air District receives funding for the administration of incentives under the TFCA program.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Anthony Fournier

Attachment 1: Proposed amendments to BAAQMD TFCA Regional Fund Policies

Attachment 1:

Proposed amendments to FYE2014 BAAQMD
TFCA Regional Fund Policies

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 2014.

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 not exceed a cost-effectiveness (C-E) of \$90,000 per ton. Cost-effectiveness is based on the ratio of TFCA-generated 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)
On-Road Truck Replacement Projects Reserved	21	\$90,000 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 (outside CARE areas)	28	\$125,000
Shuttle/Feeder Bus Service—Pilot (in CARE areas)	28	\$500,000
Regional Ridesharing	29	\$90,000
Electronic Bicycle Lockers	30	\$90,000
Reserved	31	Reserved

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 specified, 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 (Policies #11 and #12).
 - 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 the applicant's representative 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 authorizing the project to be carried out.
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 application evidence of available matching funds from a non-Air District source that equal or exceed at least 10% of the total eligible project costs.

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 by the end of calendar year 2014. "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/feeder bus 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 TFCA Regional Funds 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 Funds 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 Regional Fund 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 Funds' 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 Regional Fund, or otherwise failed to comply with the approved project scope as set forth in the project funding agreement. An applicant who failed to reimburse such funds to the Air District from a prior Air District funded project will be excluded from future TFCA funding.

- 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 Regional 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 Regional Funds.
- 17. Duplication:** Projects that have previously received TFCA-generated 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:** Unless provided for otherwise in the policies and priorities for the specific project category (which are listed below), administrative costs (i.e., the costs associated with administering a TFCA Regional Fund grant) are limited to a maximum of five percent (5%) of total TFCA Regional 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 Diesel Projects

21. **On-Road Truck Replacement Projects:** Eligible projects will replace Class 6 , Class 7, or Class 8 (19,501 lb GVWR or greater) diesel-powered trucks with new or used trucks that have an engine certified to the 2010 California Air Resources Board (CARB) emissions standards or cleaner. The existing trucks must be registered with the California Department of Motor Vehicles (DMV) to a Bay Area address, and must be scrapped after replacement.

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 are intended to reduce single-occupancy vehicle commute-hour trips by providing the short-distance connection between a mass transit hub and one or more commercial or employment centers. All of the following conditions must be met for a project to be eligible for TFCA Regional Funds:

- a. The project's route must provide connections only between mass transit hubs, e.g., a rail or Bus Rapid Transit (BRT) station, ferry or bus terminal or airport, and distinct commercial or employment areas.
- b. The project's schedule must coordinate with the transit schedules of the connecting mass transit services.
- c. The project may not replace or duplicate existing local transit service or service that ceased to operate within the past five years. Any proposed service that would transport commuters along any segment of an existing or any such previous service is not eligible for funding.
- d. The project must include only commuter peak-hour service, i.e., 5:00-10:00 AM and/or 3:00-7:00 PM.

For shuttle/feeder bus service projects, the total project cost is the sum of direct operational costs (i.e., shuttle driver wages, fuel, and vehicle maintenance) and the administrative costs paid for by TFCA Regional Funds. Matching funds must be provided to cover at least 10% of the total project cost, and must include only direct operational costs. Administrative costs are not eligible for use as matching funds.

Shuttle/feeder bus service applicants must be either: (1) a public transit agency or transit district that directly operates the shuttle/feeder bus service, or (2) a city, county, or any other public agency.

Project applicants that were awarded FYE 2013 TFCA Regional Funds that propose identical routes in FYE 2014 may request an exemption from the requirements of Policy 27. c. These applicants would have to submit a plan demonstrating how they will come into compliance with this requirement within the next three years

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 bus service project applicants must also comply with the following:
- Applicants must provide data supporting the demand for the service, including letters of support from potential users and providers;
 - Applicants must provide written documentation of plans for financing the service in the future;
 - Projects located in Highly Impacted Communities as defined in the Air District Community Air Risk Evaluation (CARE) Program must not exceed a cost-effectiveness of \$500,000/ton during the first year of operation, \$125,000/ton for the second year of operation, and \$90,000 by the end of the third year of operation (see Policy #2); and
 - Projects located in CARE areas may receive a maximum of three years of TFCA Regional Funds under the Pilot designation; projects located outside of CARE areas may receive a maximum of two years of TFCA Regional Funds under this designation. After these time periods, applicants must apply for subsequent funding under the shuttle/feeder bus service designation, described above.

Regional Ridesharing

29. **Regional Ridesharing Projects:** Eligible ridesharing projects provide carpool, vanpool or other rideshare services. 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.

If a project includes ride-matching services, *only* ride-matches that are not already included in the Metropolitan Transportation Commission's (MTC) regional ridesharing program are eligible for TFCA Regional Funds. Projects that provide a direct or indirect financial transit or rideshare subsidy are also eligible under this category. 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:** TFCA Regional Funds are 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 Regional Funds.

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

REGIONAL FUND EVALUATION CRITERIA:

- Shuttle/Feeder Bus Service and Ridesharing Projects:** Complete applications received by the submittal deadline will be evaluated based on the TFCA Regional Fund policies. All eligible projects 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 service and ridesharing project applications received after the submittal deadline on a first-come-first-served basis, based on the TFCA Regional Fund policies .

2. **Electronic Bicycle Locker(s) Projects:** Applications will be evaluated on a first-come- first-served basis.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/Air Pollution Control Officer

Date: March 6, 2014

Re: Report of the Executive Committee Meeting of March 17, 2014

PROPOSED RECOMMENDED ACTION

The Executive Committee (Committee) will receive only informational items and have no recommendations of approval by the Board of Directors.

BACKGROUND

The Committee will meet on Monday, March 17, 2014, and receive the following reports:

- A) Hearing Board Quarterly Report – October through December 2013;
- B) Regulation 14, Rule 1 – Bay Area Commuter Benefits Program (BACBP);
- C) Report on the Community Air Risk Evaluation Program and Identification of Impacted Communities; and
- D) Briefing Regarding Senate Bill (SB) 1415 (Hill)

Attached are the staff reports that will be presented in the Committee packet.

Chairperson Nate Miley will give an oral report of the Committee meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

- A) None.
- B) Air District resources to develop the BACBP are included in the Fiscal Year Ending (FYE) 2014 budget. Funding to administer the BACBP on an on-going basis will be considered in developing the FYE 2015 budget and subsequent budget cycles.
- C) None.
- D) None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Sean Gallagher

Reviewed by: Rex Sanders

Attachments

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and
Members of the Executive Committee

From: Chairperson Terry Trumbull, Esq., and
Members of the Hearing Board

Date: January 31, 2014

Re: Hearing Board Quarterly Report – October through December 2013

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

During the fourth quarter of 2013 (October through December), the Hearing Board:

- Held two hearings consisting of two Accusations (3638 and 3655), no Appeals and no Variances;
- Processed a total of three orders consisting of two Accusations (3638 and 3655), no Appeals, no Variances, no Emergency Variances and one Request for Withdrawal/Dismissal (3654); and
- Collected a total of \$5,706.00 in filing fees.

Below is a detail of Hearing Board activity during the same period:

Location: San Mateo County; City of La Honda

Docket: 3638 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. COSTA LOMA LIMITED CORPORATION, A CALIFORNIA CORPORATION and JAMES A. WILKINSON, A/K/A HIM WILKINSON, INDIVIDUALLY AND D/B/A COSTA LOMA LTD. CORPORATION – *Accusation*

Regulation(s): 2-1-302

Synopsis: Respondent is alleged to operate an unsafe facility with no permit to operate in place or accompanying fees paid. The parties jointly requested modification of the Conditional Order for Abatement, filed January 10, 2013, to allow Respondent additional time to bring the facility into compliance.

Status: Modified Conditional Order for Abatement filed December 19, 2013.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: \$0.00

Location: Contra Costa County; Town of Moraga

Docket: 3654 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. HALEH AMIRI; STARS HOLDING CO. LLC; AZAD AMIRI; AMERI MGMT COMPANY, INC. – *Accusation*

Regulation(s): 2-1-307; 8-7-204, 205, 302 and 307

Synopsis: Respondents are alleged to own and operate a gas dispensing facility with an underground stationary storage tank lacking an enhanced vapor recovery system and the requisite authority to construct.

Status: Order for Dismissal filed October 24, 2013, upon the request of Complainant.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: \$0.00

Location: Sonoma County; City of Santa Rosa

Docket: 3655 AIR POLLUTION CONTROL OFFICER OF THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT VS. MICHAEL FASANO; COMPLETE COLLISION CENTER LLC – *Accusation*

Regulation(s): 2-1-302

Synopsis: Respondents are alleged to own and operate an auto body and paint shop without a permit to operate.

Status: Stipulated Conditional Order for Abatement filed December 4, 2013.

Period of Variance: N/A

Estimated Excess Emissions: N/A

Fees collected this quarter: \$0.00

Location: Alameda County; City of Hayward

Docket: 3656 RUSSELL CITY ENERGY COMPANY, LLC – *Application for Emergency Variance*

Regulation(s): 2-1-307; Authority to Construct and Prevention of Significant Deterioration permit Condition 23763, Parts 44 and 45

Synopsis: Applicant is the owner and/or operator of a combined cycle power generation facility equipped with a nine-cell cooling tower with high-efficiency mist eliminators testing in excess of the required drift rate.

Status: Application withdrawn December 24, 2013.

Period of Variance: Requested December 20, 2013, through January 19, 2014.

Estimated Excess Emissions: Fine (PM₁₀) and ultrafine particulate matter (PM_{2.5}) in amounts to be determined.

Fees collected this quarter: \$814.00

Location: Alameda County; City of Hayward

Docket: 3657 RUSSELL CITY ENERGY COMPANY, LLC – *Application for Interim and Regular Variances*

Regulation(s): 2-1-307; Authority to Construct and Prevention of Significant Deterioration permit Condition 23763, Parts 44 and 45

Synopsis: Applicant is the owner and/or operator of a combined cycle power generation facility equipped with a nine-cell cooling tower with high-efficiency mist eliminators testing in excess of the required drift rate.

Status: Hearing on interim variance scheduled for January 30, 2014; hearing on regular variance scheduled for February 13, 2014.

Period of Variance: Requested December 20, 2013, through September 30, 2014

Estimated Excess Emissions: PM_{2.5} and PM₁₀ in amounts to be determined.

Fees collected this quarter: \$4,892.00

Respectfully submitted,

Terry Trumbull, Esq.
Chair, Hearing Board

Prepared by: Sean Gallagher
Reviewed by: Rex Sanders

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and
Members of the Executive Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 3, 2014

Re: SB 1339 - Bay Area Commuter Benefits Program Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

On September 30, 2012, the Governor signed into law Senate Bill (SB) 1339 (Yee), an act to add Section 65081 of the Government Code. This bill authorizes the Bay Area Air Quality Management District (Air District) and the Metropolitan Transportation Commission (MTC) to jointly adopt and implement a region-wide commuter benefits program on a pilot basis through the end of calendar year 2016. In response to SB 1339, Air District staff is proposing adoption of Regulation 14, Rule 1: Bay Area Commuter Benefits Program (Program). The proposed rule will serve as the foundation for the Program.

DISCUSSION

Staff has been working closely with MTC over the course of the past year to develop the proposed Program. The Program seeks to expand the number of employers who make existing federal commuter tax benefits available to their employees. These tax benefits can provide significant savings by reducing payroll and income taxes for both employers and employees. The Program would require employers with 50 or more full-time employees within the boundaries of the Air District to select one of four commuter benefit options to offer their employees:

- **Option 1: Pre-Tax Option:** The employer allows employees to exclude their transit or vanpool costs from taxable income, to the maximum amount allowed by federal law (currently \$130 per month).
- **Option 2: Employer-Provided Subsidy:** The employer provides a subsidy to cover the employee's monthly transit or vanpool cost, to a maximum of \$75 per month.
- **Option 3: Employer-Provided Transportation:** The employer provides free or low-cost commuter transportation service for its employees, such as bus or vanpool service from an employee's home community to the worksite, or shuttle service from a transit station(s) to the worksite.
- **Option 4: Alternative Commuter Benefit:** The District and MTC may approve an alternative commuter benefit proposed by the employer that would be as effective in

reducing single-occupant vehicle trips (or vehicle emissions) as any of the three options described above. To facilitate this option, staff will define several “pre-approved” alternative options.

By promoting the use of alternative commute modes, the Program will decrease drive-alone commute trips to Bay Area worksites, thus reducing emissions of greenhouse gases (GHGs) and criteria air pollutants. In addition, the Program will decrease traffic congestion during peak commute periods, provide financial savings to employers and employees, and improve employee productivity. The Program will help to implement the Transportation Control Measures in the *Bay Area 2010 Clean Air Plan* and the climate protection resolution adopted by the District Board of Directors in November 2013, and to achieve GHG reduction goals in *Plan Bay Area*.

The Program will be implemented as a collaboration between the Air District and MTC. Staff of the two agencies have been working together to develop the proposed rule, as well as the administrative structure to support and implement the Program. The agencies will focus on explaining the positive environmental and financial outcomes of the Program as the most effective means to promote employer compliance with the Program. Employer assistance will be provided through MTC’s 511 Regional Rideshare Program.

RULE DEVELOPMENT PROCESS

Staff held workshops throughout the Bay Area in October to solicit input on a draft rule (Regulation 14, Rule 1) that will serve as the foundation for the Program. Staff revised the draft Program as appropriate to respond to comments received through the workshop process.

On January 21, 2014, staff issued a Notice of Public Hearing for a hearing before the Air District Board of Directors on March 19, and posted the proposed rule (Regulation 14, Rule 1); a CEQA Initial Study and Negative Declaration; a socioeconomic analysis; and a staff report on the Air District website for public review and comment. Staff requested written comments on the proposed rule and the California Environmental Quality Act (CEQA) document by February 21. Nine comments were submitted on the proposed rule; they will be summarized in the Staff Report for the March 19 public hearing. No comments were submitted on the CEQA document. The proposed rule and the CEQA Negative Declaration will be presented to the Board for consideration and adoption at the public hearing on March 19.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Air District resources to develop the Program are included in the Fiscal Year Ending (FYE) 2014 budget. Funding to administer the Program on an on-going basis will be considered in developing the FYE 2015 budget and subsequent budget cycles.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David Burch
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Nate Miley and Members
of the Executive Committee

From: Jack P. Broadbent
Executive Officer/ APCO

Date: March 7, 2014

Re: Report on the Community Air Risk Evaluation (CARE) Program Update

RECOMMENDED ACTION

None; receive and file.

BACKGROUND

The Community Air Risk Evaluation (CARE) program was established by the Air District in 2004. The objectives of the CARE program are to:

- Identify areas where people are experiencing the greatest health impacts from air pollution, communities with relatively poor air quality and with relatively vulnerable populations; and
- Use this information to help the Air District establish policies to guide mitigation strategies.

Air District staff previously reported to the Executive Committee on the CARE program in February 2010. That report discussed the identification of impacted communities. In recent years the CARE program has made important progress in identifying, understanding, and reducing public exposure to air pollution. In addition, Air District staff has updated the data and methods used to identify impacted areas. A Task Force of academics, community groups, and health and industry representatives provides regular review and input to the CARE program, including review of recent work updating the methods for identifying impacted areas.

DISCUSSION

The CARE program supplements the Air District's long-standing regional efforts to improve air quality by emphasizing local exposures to air pollution that often occur near emission sources. The identification of impacted areas within the Bay Area is an important step to achieving CARE program objectives. In 2009, Air District staff first developed a mapping method (version-1) for identifying communities with relatively high exposures of sensitive populations to toxic air contaminants (TAC). The version-1 method considered 1) areas where TAC emissions are high, 2) areas where there are high TAC exposures to youth and seniors, and 3) areas where there are high percentages of low-income families.

In 2013, with input from CARE Task Force members and other peer review, Air District staff updated the data and methods used to identify impacted communities. In developing the updated

method, Air District staff considered other similar efforts, such as Cal/EPA's CalEnvironScreen and tools developed by health professionals and academic researchers. A version-2 method:

- Uses more current information;
- Expands the types of pollutants considered, including ozone and fine particles in addition to TAC;
- No longer uses socio-economic data, such as income, to identify sensitive populations. Instead, health records for illnesses linked to air pollution are used to indicate vulnerability because areas with higher (non-accident) death rates and higher rates of adverse health outcomes related to air pollution have greater sensitivity to elevated air pollution levels.

This method identifies the following seven areas as impacted communities:

1. Western Contra Costa county and the Cities of Richmond and San Pablo;
2. Western Alameda County along the Interstate-880 corridor and the Cities of Berkeley, Alameda, Oakland, and Hayward;
3. The City of San Jose;
4. The eastern side of the City and County of San Francisco;
5. The City of Concord;
6. The City of Vallejo; and
7. The Cities of Pittsburg and Antioch.

Communities identified as impacted help the Air District prioritize activities, especially those related to reducing exposures to local air pollution sources. However, the Air District's regional actions to improve air quality and public health continue, both within and outside these communities. For example, the Air District continues to prepare plans and implement programs to reduce health impacts from high levels of ozone and fine particles. Air District staff has also mapped areas where unhealthy levels of ozone and fine particles occur during episodes of high pollution:

- Livermore;
- San Ramon;
- Bethel Island;
- Concord;
- Vallejo;
- San Rafael;
- San Francisco;
- Oakland; and
- San Jose.

Maps of areas with episodes of high pollution, in combination with maps of high localized exposures, collectively help the Air District focus efforts in communities where they will achieve the greatest health benefits.

Air District staff will provide the Committee with a presentation on the CARE program and the identification of impacted communities. At an upcoming Board of Directors meeting, staff will

further brief the Board on the CARE program and present a report summarizing a decade of CARE program research, findings, and accomplishments.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer /APCO

Prepared by: Phil Martien
Reviewed by: Henry Hilken

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Nate Miley and Members
of the Executive Committee

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 11, 2014

Re: Briefing Regarding Senate Bill (SB) 1415 (Hill)

RECOMMENDED ACTION

None; review and file.

DISCUSSION

State Senator Jerry Hill (D-San Mateo) has introduced a bill about the Air District's Advisory Council. Senator Hill served on the Air District Board as a member and as Chair in 2008. As Chair, he served as an ex-officio member of the Advisory Council. SB 1415 makes some changes to the Air District's Advisory Council.

In 1955, at the same time it established the Air District, the Legislature also established our Advisory Council. That language remains in statute today, virtually unchanged. This language reads that the Advisory Council members "preferably are skilled and experienced in the field of air pollution." Today, the Air District is required by state and federal law to address a far more diverse set of issues than it handled in 1955. The Air District works to reduce emissions from a much wider range of sources, addresses the public health impacts of air pollution, and is part of a unified effort on climate change.

SB 1415 updates the Advisory Council language to recognize the current responsibilities of the Air District. Specifically, SB 1415 would require the Advisory Council members to be "skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution." A copy of the bill is attached.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Tom Addison
Reviewed by: Jean Roggenkamp

Attachment

Introduced by Senator HillFebruary 21, 2014

An act to amend Section 40262 of the Health and Safety Code, relating to the Bay Area Air Quality Management District.

LEGISLATIVE COUNSEL'S DIGEST

SB 1415, as introduced, Hill. Bay Area Air Quality Management District: advisory council.

(1) Existing law establishes the Bay Area Air Quality Management District, which is vested with the authority to regulate air emissions located in the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and portions of the Counties of Solano and Sonoma. Existing law establishes a district board to govern the district.

Existing law also establishes the Bay Area Air Quality Management Council, which consists of 20 members appointed by the district board, as specified, for the purposes of advising and consulting with the district board and air pollution control officer in the implementation of their authority to regulate air emissions.

This bill additionally would require the council to include members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution. By adding to the duties of the district, this bill would impose a state-mandated local program.

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

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 40262 of the Health and Safety Code is
2 amended to read:

3 40262. (a) The council shall consist of the ~~chairman~~ *following*:
4 (1) *Chair* of the bay district board, who shall serve as an ex
5 officio ~~member, and 20 members~~ *member*.

6 (2) *Twenty members* who ~~preferably are~~ *shall be* skilled and
7 experienced in the ~~field~~ *fields* of air pollution, ~~including at climate~~
8 *change, or the health impacts of air pollution. The 20 members*
9 *may include any of the following*:

10 (A) *At least three representatives of public health agencies, at*
11 *agencies.*

12 (B) *At least four representatives of private organizations active*
13 *in conservation or protection of the environment within the bay*
14 *district, and at district.*

15 (C) *At least one representative of colleges or universities in the*
16 *state and at state.*

17 (D) *At least one representative of each of the following groups*
18 *within the bay district: regional*

19 (i) *Regional park district, park district.*

20 (ii) *Park and recreation commissions or equivalent agencies of*
21 *any city, public city.*

22 (iii) *Public mass transportation system, agriculture, industry,*
23 *community planning, transportation, registered professional*
24 *engineers, general contractors, architects, and organized labor.*
25 *system.*

26 (iv) *Agriculture.*

27 (v) *Industry.*

28 (vi) *Community planning.*

29 (vii) *Transportation.*

30 (viii) *Registered professional engineers.*

31 (ix) *General contractors.*

32 (x) *Architects.*

33 (xi) *Organized labor.*

1 ~~To~~
2 **(b)** *To* the extent that suitable persons cannot be found for each
3 of the specified categories, council members may be appointed
4 from the general public.

5 **SEC. 2.** If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

O

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Nate Miley and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: March 6, 2014

Re: Public Hearing to Consider Adoption of Proposed Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program; and the adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA)

RECOMMENDED ACTION

Staff recommends that the Board of Directors take the following actions:

- Adopt a Negative Declaration pursuant to the California Environmental Quality Act for proposed Regulation 14, Rule 1; and
- Adopt proposed Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program.

BACKGROUND

Senate Bill 1339, signed into law in fall 2012 and codified as Section 65081 of the Government Code, authorizes the Bay Area Air Quality Management District (Air District) and the Metropolitan Transportation Commission (MTC) to jointly adopt and implement a regional commuter benefits ordinance on a pilot basis through the end of year 2016. The bill is modeled on local commuter benefit ordinances that have already been adopted by several Bay Area cities in recent years, including the cities of Berkeley, Richmond, and San Francisco. In response to Senate Bill 1339, Air District staff is proposing adoption of Regulation 14, Rule 1: Bay Area Commuter Benefits Program. The proposed rule will serve as the foundation for the Bay Area Commuter Benefits Program (Program).

DISCUSSION

Staff has been working closely with MTC over the course of the past year to develop the proposed Program. The Program seeks to expand the number of employers who make existing federal commuter tax benefits available to their employees. These tax benefits can provide significant savings by reducing payroll and income taxes for both employers and employees. The Program would require employers with 50 or more full-time employees

within the boundaries of the Air District to select one of four commuter benefit options to offer their employees:

- **Option 1: Pre-Tax Option:** The employer allows employees to exclude their transit or vanpool costs from taxable income, to the maximum amount allowed by federal law (currently \$130 per month).
- **Option 2: Employer-Provided Subsidy:** The employer provides a subsidy to cover the employee's monthly transit or vanpool cost, to a maximum of \$75 per month.
- **Option 3: Employer-Provided Transportation:** The employer provides free or low-cost commuter transportation service for its employees, such as bus or vanpool service from an employee's home community to the worksite, or shuttle service from a transit station(s) to the worksite.
- **Option 4: Alternative Commuter Benefit:** The Air District and MTC may approve an alternative commuter benefit proposed by the employer that would be as effective in reducing single-occupant vehicle trips as any of the three options described above. To facilitate this option, staff will define several "pre-approved" alternative options.

By promoting the use of alternative commute modes, the Program will decrease drive-alone commute trips to Bay Area worksites, thus reducing emissions of greenhouse gases (GHGs) and criteria air pollutants. In addition, the Program will decrease traffic congestion during peak commute periods, provide financial savings to employers and employees, and improve employee productivity. The Program will help to implement the Transportation Control Measures in the *Bay Area 2010 Clean Air Plan* and the climate protection resolution adopted by the District Board of Directors in November 2013, and to achieve GHG reduction goals in *Plan Bay Area*.

The Program will be implemented as a collaboration between the Air District and MTC. Staff of the two agencies have been working together to develop the proposed rule, as well as the administrative structure to support and implement the Program. The agencies will focus on explaining the positive environmental and financial outcomes of the Program as the most effective means to promote employer compliance with the Program. Employer assistance will be provided through MTC's 511 Regional Rideshare Program.

RULE DEVELOPMENT PROCESS

In developing the proposed Program, Air District staff met with many employer and business groups. Staff made a special effort to engage with smaller employers by meeting with Chambers of Commerce and economic development associations throughout the region. Staff also met with other stakeholders, including transit agencies, vendors that administer commuter benefit programs on behalf of employers, Transportation Management Associations, and Congestion Management Agencies. Staff issued a draft rule and Workshop Report in late August 2013 and held public workshops to solicit comment in all nine Bay Area counties in October 2013. Staff revised the draft Program as appropriate to respond to public comments.

On January 21, 2014, staff issued a Notice of Public Hearing and posted the proposed rule (Regulation 14, Rule 1); the CEQA initial study and Negative Declaration; a socioeconomic analysis; and a staff report for public review and comment on the Air District website. Staff requested written comments on the proposed rule and the CEQA document by February 21. Nine comments were submitted on the proposed rule. The comments were primarily supportive of the proposed Program; no changes to the rule are proposed in response to the comments. The comments and staff responses are provided in Appendix A of the Staff Report. No comments were submitted on the CEQA document.

EMISSION REDUCTIONS AND ENVIRONMENTAL IMPACTS

Staff estimates that the proposed Program would reduce emissions of carbon dioxide (CO₂) by 12,714 metric tons per year, emissions of reactive organic gases (ROG) by 2.8 metric tons per year, emissions of nitrogen oxides (NO_x) by 5.9 metric tons per year, and emissions of fine particulate matter (PM_{2.5}) by 0.1 metric tons per year.

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000 et seq.), an initial study for the proposed Program has been conducted, concluding that the proposed rule would not have significant adverse environmental impacts. A Negative Declaration (Appendix C of the staff report) is proposed for adoption by the Air District Board of Directors. As noted above, no comments were received on the CEQA document prior to the February 21 deadline.

ECONOMIC IMPACTS

For most employers, compliance costs should be modest. Many employers will experience savings on their payroll taxes that will offset or exceed their compliance costs. The compliance costs to a given employer will depend upon which commuter benefit the employer chooses to offer. Staff expects that most employers will choose Option 1, which can provide tax savings to both employers and their employees. The socio-economic analysis performed by BAE Urban Economics (Appendix B of the staff report) found that the Program would provide a net economic benefit to the region. The analysis estimates that the tax savings to Bay Area employers would provide approximately \$30 million per year in economic benefit to the region (direct, indirect, and induced impacts combined), resulting in creation of 200 new jobs per year. In addition, the tax savings that accrue to employees who change commute mode as a result of the Program would provide additional economic benefit to the Bay Area on the order of \$84 million per year (direct, indirect, and induced impacts combined), resulting in creation of approximately 610 new jobs per year. In addition to these tax savings, by offering commuter benefits, employers may also experience improved employee recruitment and retention, and improved employee productivity due to less commute stress.

BUDGET CONSIDERATIONS/FINANCIAL IMPACTS

Air District resources to develop the Program are included in the Fiscal Year Ending (FYE) 2014 budget. Funding to administer the Program on an on-going basis will be considered in developing the FYE 2015 budget and subsequent budget cycles.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: David Burch
Reviewed by: Henry Hilken

Attachments:

Proposed Regulation 14: Rule 1: Bay Area Commuter Benefits Program and Staff Report, including Appendices:

- Appendix A: Comments and Staff Responses
- Appendix B: Socio-economic Analysis
- Appendix C: CEQA Initial Study and Negative Declaration

REGULATION 14
MOBILE SOURCE EMISSIONS REDUCTION MEASURES
RULE 1
BAY AREA COMMUTER BENEFITS PROGRAM

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REGULATION 14
MOBILE SOURCE EMISSIONS REDUCTION MEASURES
RULE 1
BAY AREA COMMUTER BENEFITS PROGRAM

14-1-100 GENERAL

14-1-101 Description: This rule serves as the regional commute benefits ordinance authorized by California Government Code section 65081. The purpose of this rule is to improve air quality, reduce emissions of greenhouse gases and other air pollutants, and decrease traffic congestion in the San Francisco Bay Area by encouraging employees to commute to work by transit and other alternative commute modes.

14-1-102 Applicability: This rule applies to all public, private, and non-profit employers for which an average of 50 or more full-time employees per week perform work for monetary compensation within the geographic boundaries of the Bay Area Air Quality Management District (District) as determined pursuant to Section 14-1-402.

14-1-103 Disclaimers: This rule shall not be interpreted to:

- 103.1 Prevent an employer from offering a commuter benefits program that is more generous than the minimum requirements described in this rule, provided that the employer complies with all provisions of this rule.
- 103.2 Require any employee to change his or her commute mode.
- 103.3 Absolve any employer or other party from any obligation required by an existing collective bargaining agreement with employees, or any provision of law.

14-1-200 DEFINITIONS

14-1-201 Air Pollution Control Officer (APCO): The Executive Officer of the Bay Area Air Quality Management District, or a designee of the APCO.

14-1-202 Alternative Commute Modes: Transit, vanpool, carpool, bicycling, or walking.

14-1-203 Commuter Benefits: Benefits, services, and information provided by an employer, consistent with Section 14-1-300, to encourage employees to commute by alternative commute modes.

14-1-204 Commuter Benefits Coordinator: An employee or other agent designated by the employer who is responsible for implementing the employer's commuter benefits program and complying with the requirements of this rule.

14-1-205 Employee: Any person who performs services for the employer in return for monetary compensation and to whom the employer has provided or will provide an Internal Revenue Service Form W-2.

14-1-206 District: The Bay Area Air Quality Management District.

14-1-207 Covered Employee: An employee who performed an average of at least 20 hours of work per week within the previous calendar month within the geographic boundaries of the District, excluding a seasonal/temporary employee as defined in Section 14-1-210.

14-1-208 Employer: Any public, private, or non-profit entity (person, corporation, partnership, business firm, government agency, special purpose agency, educational institution, health care facility, etc.) for which an average of 50 or more full-time employees per week perform work for monetary compensation within the geographic boundaries of the District as determined pursuant to Section 14-1-402. The term excludes seasonal/temporary employees as defined in Section 14-1-210.

14-1-209 Full-time Employee: An employee who performed an average of at least 30 hours of work per week within the previous calendar month within the geographic boundaries of the District, excluding a seasonal/temporary employee as defined in Section 14-1-210.

14-1-210 Seasonal/Temporary Employee: An employee who works for the employer 120 days or less within the calendar year.

14-1-211 Transit: Bus, rail, or ferry service operated by a public agency or a private entity.

14-1-212 Transportation Management Association (TMA): An organization, funded in whole or in part by employers and/or property owners, through which employers, developers, property managers or owners, business improvement districts, and/or local government agencies work together to provide information and services to encourage the use of alternative commute modes. The employer financial contribution to a TMA may be in the form of a direct membership payment, via an assessment earmarked for specific commuter benefit programs or services, or indirectly through the rent paid to a business park or building covered by a TMA.

14-1-213 Vanpool: A commute mode using a vehicle with a seating capacity of at least six adults (not including the driver) that meets the definition of “commuter highway vehicle” in Internal Revenue Code Section 132(f)(5)(B).

14-1-300 STANDARDS

14-1-301 Commuter Benefit Options: No later than six (6) months after adoption of this rule by the District Board of Directors and concurrence by the MTC Commission, whichever is later, each employer subject to this rule must offer, either directly or through a TMA as defined in Section 14-1-212, at least one of the following commuter benefit options to all covered employees.

301.1 Option 1: Pre-tax option: A program, consistent with Section 132(f) of the Internal Revenue Code, allowing covered employees to elect to exclude from taxable wages costs incurred for transit passes or vanpool charges, up to the maximum amount allowed by federal tax law.

301.2 Option 2: Employer-paid benefit: A program whereby the employer offers employees a subsidy to offset the monthly cost of commuting via transit or by vanpool. In 2013, the subsidy shall be equal to either the monthly cost of commuting via transit or vanpool, or seventy-five dollars (\$75), whichever is lower. The APCO shall annually adjust this amount consistent with the California Consumer Price Index for San Francisco-Oakland-San Jose. An employer may also elect to provide a subsidy for bicycle commuting costs in addition to subsidies for transit and vanpool costs.

301.3 Option 3: Employer-provided transit: Transportation furnished by the employer at no cost, or low cost as determined by the APCO, to employees in a vanpool or bus, or similar multi-passenger vehicle operated by or for the employer.

14-1-302 Alternative Commuter Benefit Program: Pursuant to Government Code sections 65081(d) and (g), in lieu of complying with Section 14-1-301, an employer may offer an alternative benefit, either directly or through a TMA as defined in Section 14-1-212. The alternative benefit must be proposed in writing, must comply with guidelines issued by the APCO, and must be approved in writing by the APCO. The criterion for approval of an alternative commuter benefit is that it must provide at least the same reduction in single-occupant vehicle trips as any of the options described in Section 14-1-301.

14-1-400 ADMINISTRATIVE REQUIREMENTS

14-1-401 Notification to Employers: The APCO will provide notice to employers within the District regarding the adoption and implementation of this rule by means of written notice and/or email notification.

14-1-402 Determination of Employee Count: For purposes of determining applicability of this rule pursuant to Section 14-1-102, the number of full-time employees employed by an employer shall be determined by calculating the average number of employees per week carried on the payroll over the course of the most recent three-month period, consistent with guidelines issued by the APCO.

14-1-403 Designate Commuter Benefits Coordinator: Employers subject to this rule shall designate a Commuter Benefits Coordinator who is responsible for implementing the employer’s commuter benefits program and complying with the requirements of this rule.

14-1-404 Initial Registration: Employers subject to this rule shall submit an initial registration to the APCO no later than six (6) months after the adoption of this rule by the District Board of Directors and concurrence by the MTC Commission, whichever is later. In registering, the

employer shall provide information necessary for purposes of this rule, consistent with any guidance issued by the APCO, and shall verify the accuracy of the information. This information shall include:

- 404.1 The employer name;
- 404.2 The name, job title, and contact information for the Commuter Benefits Coordinator;
- 404.3 The total number of full-time employees and covered employees within the geographic boundaries of the District;
- 404.4 The location of each work site within the District boundaries;
- 404.5 The number of full-time employees and covered employees at each work site;
- 404.6 The commuter benefits option that the employer has chosen to implement to comply with Section 14-1-300.
- 404.7 Employers who become subject to this rule at any time pursuant to Section 14-1-402 shall register with the APCO and comply with all requirements in this rule no later than six (6) months of becoming subject to this rule.

14-1-405 Employee Notification: Using appropriate means such as email messages, paper memos, in-house newsletters or bulletins, and/or conventional or electronic bulletin boards, the employer shall:

- 405.1 Notify all covered employees that the employer is subject to the requirements of the rule;
- 405.2 Inform employees as to which of the commuter benefit options the employer will offer;
- 405.3 Provide information as to how a covered employee may apply for and receive the commuter benefit;
- 405.4 Provide a point of contact within the organization for further information about the commuter benefit; and
- 405.5 Provide commuter benefits information as part of the employee benefits package explained to all newly hired employees.
- 405.6 The employer shall provide to employees the notifications required by Sections 14-1-405.2, 405.3, and 405.4 when the commuter benefit is first made available to employees, and at least once per year thereafter.

14-1-406 Annual Registration Update: After initially registering with the APCO pursuant to Section 14-1-404, the employer shall update and verify its registration information on an annual basis.

14-1-407 Program Evaluation: Employers shall provide information needed to evaluate the results of the rule, or facilitate the development of such information, upon request by the APCO.

14-1-408 Role of Transportation Management Association: An employer that participates in a TMA as defined in Section 14-1-212 may authorize the TMA to fulfill any or all of the administrative requirements described in Section 14-1-400.

14-1-409 Violations: Violations of this rule are subject to the civil penalty provisions for enforcement of air pollution control laws in the California Health and Safety Code beginning at section 42402.

14-1-500 MONITORING AND RECORDS

14-1-501 Recordkeeping Requirements: An employer, or a TMA as defined in Section 14-1-212 on behalf of an employer, shall:

- 501.1 Maintain and retain records, files, and documentation to establish compliance with the requirements of this rule;
- 501.2 Retain records, files, and documentation to establish compliance with this rule for a period of three years; and
- 501.3 Make records, files, and documentation available upon request by the APCO.

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

**BAAQMD Regulation 14, Rule 1:
BAY AREA COMMUTER BENEFITS PROGRAM**

In Cooperation with the Metropolitan Transportation Commission



METROPOLITAN
TRANSPORTATION
COMMISSION

Staff Report
March 2014

Prepared by:

**David Burch, Principal Environmental Planner
Jackie Winkel, Environmental Planner II**

Commuter Benefits Rule Development Team

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STAFF REPORT
Regulation 14, Rule 1: Bay Area Commuter Benefits Program

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1. Executive Summary

Senate Bill 1339, signed into law in fall 2012, authorizes the Bay Area Air Quality Management District (Air District) and the Metropolitan Transportation Commission (MTC) to adopt and implement a Bay Area Commuter Benefits Program (Program) on a pilot basis through the end of year 2016. The bill is modeled on local commuter benefit ordinances that have already been adopted by several Bay Area cities in recent years, including the cities of Berkeley, Richmond, and San Francisco (as well as San Francisco International Airport). In response to Senate Bill 1339, the Air District is proposing adoption of Regulation 14, Rule 1: *Mobile Source Emissions Reduction Measures, Bay Area Commuter Benefits Program*. The proposed rule will be presented to the governing board of the Air District for adoption and to the MTC Commission for concurrence in March 2014.

The proposed rule will serve as the foundation for the Bay Area Commuter Benefits Program (Program).¹ The Program would require employers with 50 or more full-time employees in the Bay Area² to select one of four commuter benefit options to offer their employees. The Program will be designed to provide flexibility to employers and to minimize reporting and administrative requirements. The Program will neither establish numerical performance targets for employers, nor will it require any employee to change his/her commute mode.

The primary objective of the Program is to reduce emissions of greenhouse gases (GHGs) and criteria air pollutants. The Program would accomplish this by expanding the number of employers who provide commuter benefits to their employees. In particular, the Program seeks to increase the number of employers who allow their employees to exclude the dollars used to commute by transit or vanpool from taxable wages, as permitted by the federal tax code.

The Program is expected to provide a variety of positive outcomes, as discussed in Section 5, including reduced emissions of air pollutants and greenhouse gases, financial savings to employers and employees, decreased traffic congestion, and improved employee productivity. By encouraging Bay Area commuters to choose alternative transportation modes instead of driving alone to work, the Program would improve air quality and reduce traffic congestion, especially during periods of peak demand. The Program would help to implement the Transportation Control Measures in the *Bay Area 2010 Clean Air Plan*, and help the Bay Area to achieve GHG reduction goals in the regional “sustainable communities’ strategy” known as *Plan Bay Area* (adopted in July 2013) and the climate protection resolution adopted by the Air District Board in November 2013. In addition, by expanding the use of federal commuter tax benefits, the Program would put more dollars in the pockets of Bay Area businesses and residents and thus stimulate the regional economy.

¹ The rule, complementary supporting materials, and administrative procedures, are collectively referred to as “the Program” in this Staff Report.

² For employers with multiple worksites in the region, the employee count would be based on the combined total of full-time employees at all Bay Area worksites.

The Program would be implemented as a collaboration between the Air District and MTC. The agencies will focus on educating employers and employees about the financial and environmental benefits of the Program as the most effective means to ensure employer participation in the Program. The agencies are committed to working with Bay Area employers to make the Program easy to implement. Guidelines and educational materials will be provided to help employers understand the Program and to comply with the rule by developing effective commuter benefit programs for their employees. Employer assistance will be provided through MTC's 511 Regional Rideshare Program (511 RRP).

In working to develop the Program described in this report, Air District staff met with many business groups and other stakeholders, including Chambers of Commerce and economic development associations in cities and counties throughout the region. The Air District issued documents describing the draft Program for public review and comment in late August 2013. Air District and MTC staff held public workshops to solicit input on the draft Program in all nine counties in October 2013. The comments received in response to the draft Program were reviewed and considered in preparing the proposed Program.

A socio-economic analysis prepared by BAE Urban Economics (see Appendix B) found that the proposed Program would not impose significant costs to Bay Area employers. In fact, the analysis found that tax savings to employers and employees could provide economic benefits on the order of \$115 million per year (direct, indirect, and induced impacts combined). The analysis estimates that this economic stimulus would result in the creation of 800 new jobs per year.

An analysis by Air District staff found the proposed rule would create no adverse environmental impacts. Air District staff is inviting comment on a California Environmental Quality Act (CEQA) Initial Study and Negative Declaration (see Appendix C).

If the proposed Program is approved by the governing boards of the Air District and MTC, employers subject to the Program will have six months to select a commuter benefit, register with the Program, notify their employees about their commuter benefit, and implement their commuter benefit.

2. BACKGROUND

A. Rationale for the Program

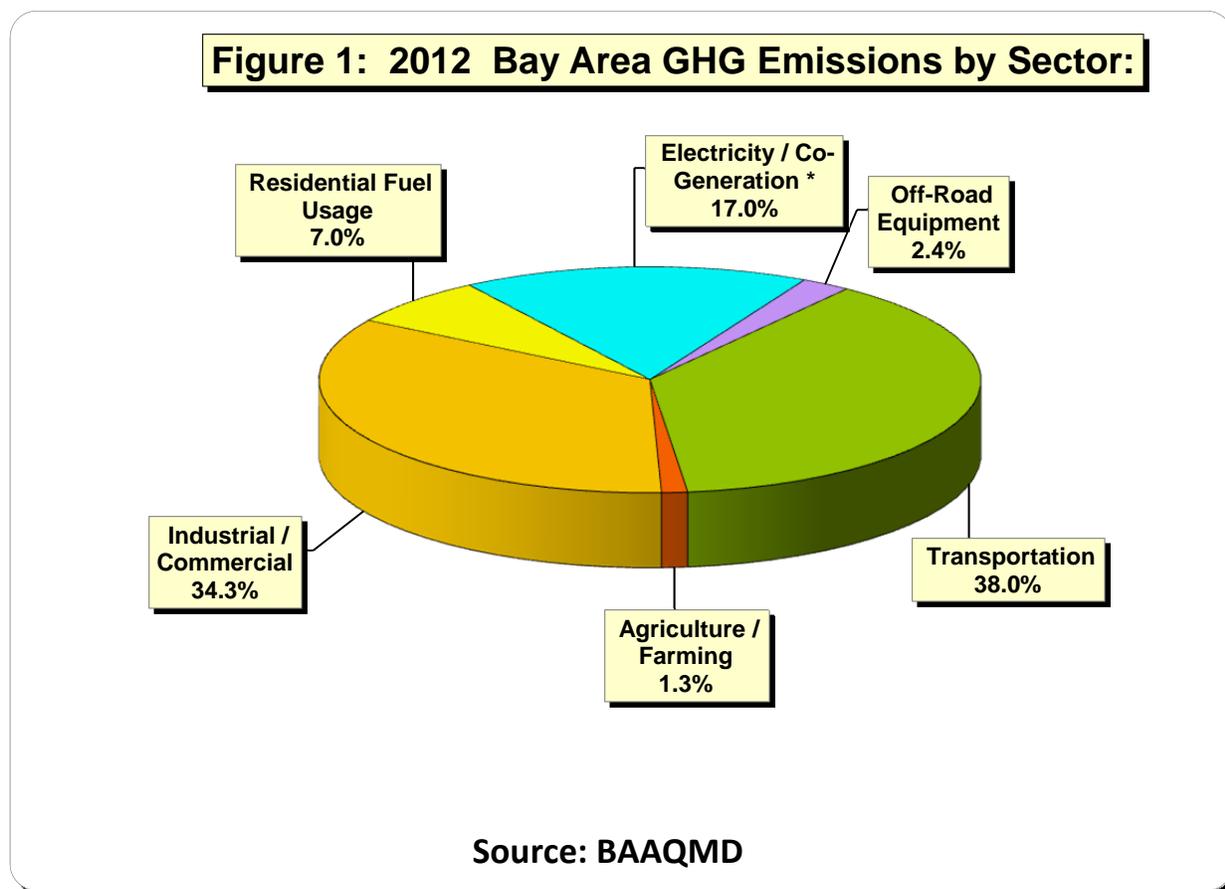
An effective transportation system is crucial to the economic and social vitality of the Bay Area. Year after year, however, the Bay Area experiences some of the worst traffic congestion in the nation. During peak periods, travel volume frequently exceeds roadway capacity in key Bay Area corridors. A recent study found that the Bay Area freeway system is congested 79 percent of the time on average during peak travel periods.³ Traffic congestion increases emissions of air pollutants and greenhouse gases, and also imposes significant economic costs on the region. Since many Bay Area roadways are already congested

³ 2012 *Urban Mobility Report*, Texas Transportation Institute. <http://mobility.tamu.edu/ums/report>

during peak periods, even a modest increase in economic activity and/or population may push the region's roadways further toward gridlock, with associated increases in emissions of air pollutants.

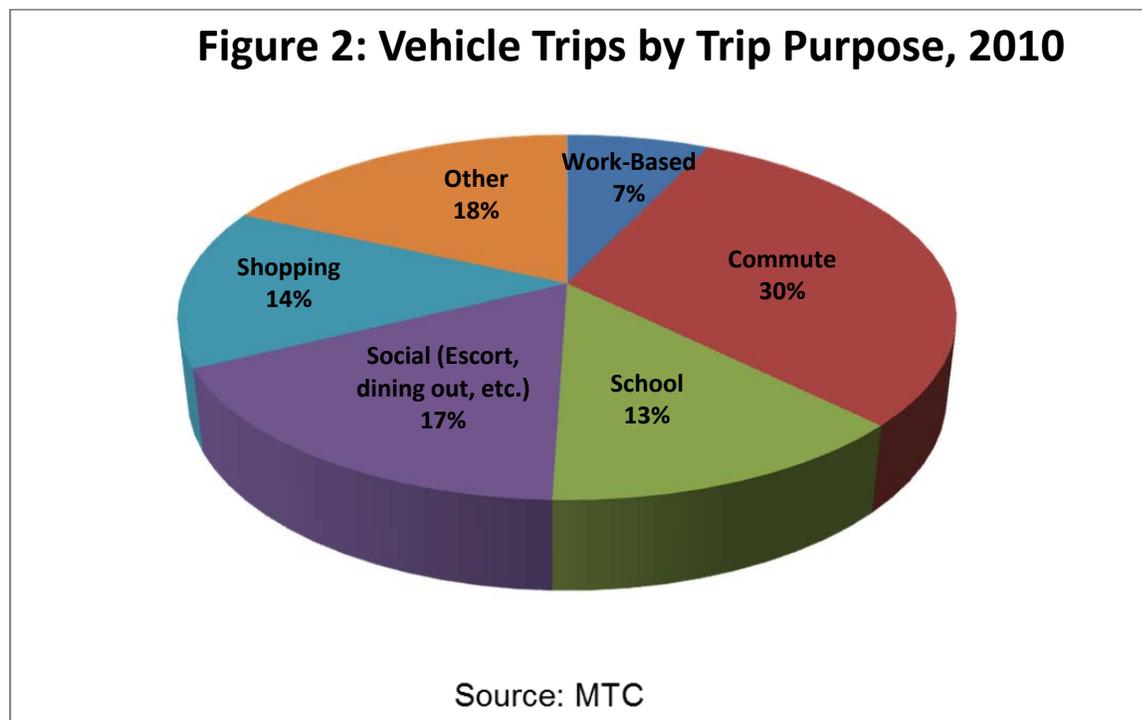
The existing stress on the Bay Area transportation system will increase as the Bay Area recovers from the recent economic recession and as regional population grows in coming decades. Because there are major physical and financial constraints on expanding the transportation system, the region needs to develop policies and programs to maximize the efficient operation of the existing system and to minimize the negative impacts of the transportation system on air quality, climate and the environment. The Bay Area Commuter Benefits Program can provide both economic and environmental benefits through encouraging employers to extend commuter benefits to their employees.

On-road motor vehicle trips are a major contributor to emissions of criteria air pollutants and greenhouse gases in the Bay Area. According to the Air District's Bay Area emissions inventory for year 2012, on-road motor vehicles account for 30 percent of emissions of reactive organic gases (ROG), 53 percent of oxides of nitrogen (NOx),⁴ and 15 percent of directly-emitted fine particulate matter (PM2.5). The transportation sector is one of the largest sources of greenhouse gas (GHG) emissions in the Bay Area, accounting for 38 percent of total GHG emissions on a CO₂-equivalent basis, as shown in Figure 1.



⁴ ROG and NOx are precursor gases that contribute to formation of ozone and particulate matter in the atmosphere.

There are several reasons to focus on reducing commute trips as part of a broader strategy to reduce emissions from the on-road motor vehicle sector as a whole.⁵ Commute trips represent a significant portion of motor vehicle travel. On a typical weekday, as shown in Figure 2, commute trips account for approximately 30 percent of vehicle trips, while another 7 percent of trips are work-based trips such as employee errands during lunch periods. In addition, because commute trips are concentrated during the morning and evening peak travel periods, they are the major cause of weekday rush-hour traffic congestion.

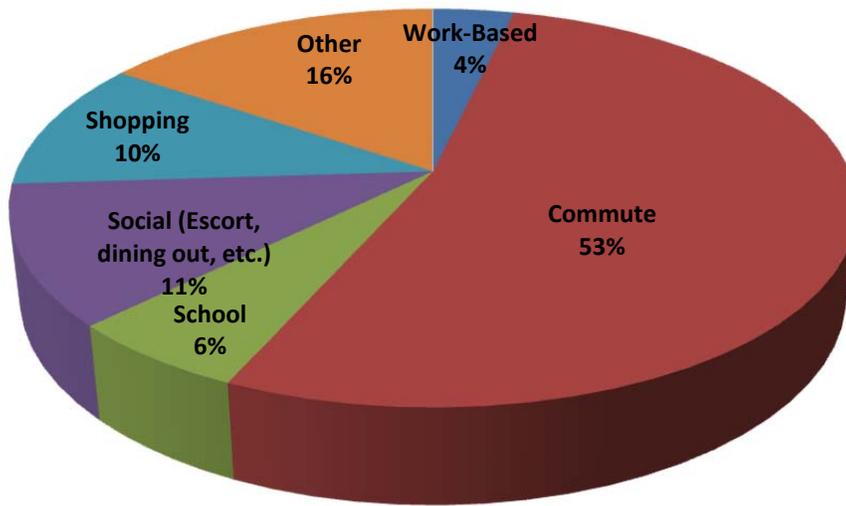


On average, commute trips are also longer in distance than other types of trips. Therefore, they account for an even greater proportion of total vehicle miles of travel than vehicle trips. As shown in Figure 3, commute travel accounts for just over half (53 percent) of weekday vehicle miles of travel (VMT) in the Bay Area.⁶

⁵ The comprehensive strategy to reduce emissions from motor vehicle travel is defined in the Bay Area 2010 Clean Air Plan. www.baaqmd.gov/Divisions/Planning-and-Research/Plans/Clean-Air-Plans.aspx

⁶ The commute VMT shown in Figure 3 includes errands and stops made en route between home and work, such as stopping at the grocery store or to pick up children at day care. The VMT data in Figure 3 excludes commercial travel, as well as travel on the part of non-residents passing through the Bay Area.

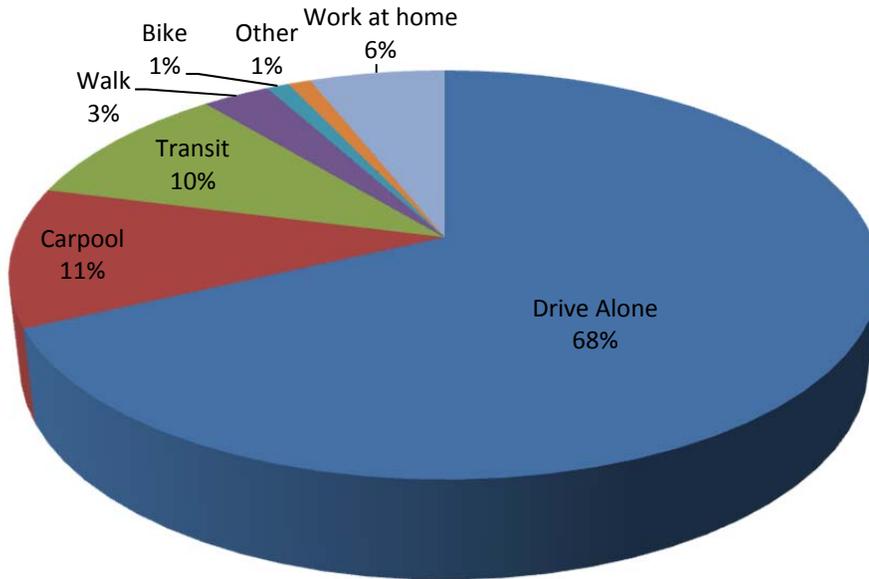
Figure 3: VMT by Trip Purpose, 2010



Source: MTC

The average vehicle occupancy rate (number of passengers per vehicle) for commute trips is lower than for other types of trips. As shown in Figure 4, two-thirds of Bay Area employees currently drive to work alone. The large number of single-occupant vehicles on the road for commute purposes is a major cause of peak period congestion.

Figure 4: Bay Area Commute Modes, 2010



Source: MTC

Fortunately, individual mode choice can be more readily influenced in the case of commute trips compared to other trip types. Commute trips occur on a regular basis, and more transit service is available during the morning and evening peak periods when most commute trips occur. Although individual employees choose their commute mode, a solid body of research demonstrates that employers can influence an employee’s commute mode choice by offering information and services to encourage the use of alternative modes.

B. Nexus to Regional Plans and Climate Protection Resolution

The Bay Area Commuter Benefits Program would help to implement the *Bay Area 2010 Clean Air Plan* (2010 CAP). The 2010 CAP sets forth a multi-pollutant control strategy to help the Bay Area attain and maintain State and national air quality standards, protect public health, and protect the climate. The control strategy includes a comprehensive set of Transportation Control Measures (TCMs) to reduce motor vehicle travel and vehicle emissions. The concept of developing a regional commuter benefits program is included in TCM C-1 (Voluntary Employer-Based Trip Reduction Programs). In addition, the Program will help the Bay Area to achieve GHG reduction goals in the regional “sustainable communities’ strategy” known as *Plan Bay Area* (adopted in July 2013) and the climate protection resolution adopted by the Air District Board in November 2013.

C. Commuter Benefits Provisions in the Federal Tax Code

There are many ways that employers can influence employee commute mode choice. Certain measures, such as providing free or subsidized parking at or near the worksite, serve as an incentive for employees to drive to work. However, employers can also offer services and incentives to promote the use of alternative commute modes by their employees, such as subsidies for transit use or ridesharing, preferential parking for carpools, shuttles to the worksite from nearby transit stations, lockers and showers for bicycle commuters, and on-site amenities that reduce the need to drive to work.

Historically, federal tax policies related to commuting focused on parking. By treating employer-paid parking as a tax-free benefit to the employee, section 132 of the Internal Revenue Code may act as an incentive for employees to drive to work.⁷ However, more recent federal legislation has amended the Internal Revenue Code to broaden the federal commuter tax benefits to encourage the use of alternative commute modes, such as transit, vanpool, and bicycling. IRS Code section 132 defines employer-provided benefits for transit, vanpool, and bicycling as “qualified transportation fringe benefits” that are not subject to taxation up to a specified amount per year. These federal tax benefits can result in significant tax savings to both employers and employees, as described in Section 5.

Although many employers already make the federal commuter tax benefits available to their employees, available evidence indicates that most employers still do not.⁸ Not surprisingly, employer size and worksite location both have a bearing on the percentage of employers who offer commuter benefits. Large employers, as well as employers located in central business districts that are well-served by transit, are more likely to offer commuter benefits.⁹ A key objective of the proposed Program is to expand the number of Bay Area employers who make the federal commuter tax benefits available to their employees. In particular, the Program seeks to increase the number of employers who allow their employees to exclude their transit or vanpool costs from taxable wages.

D. Results from Existing Employer Commuter Benefits Programs

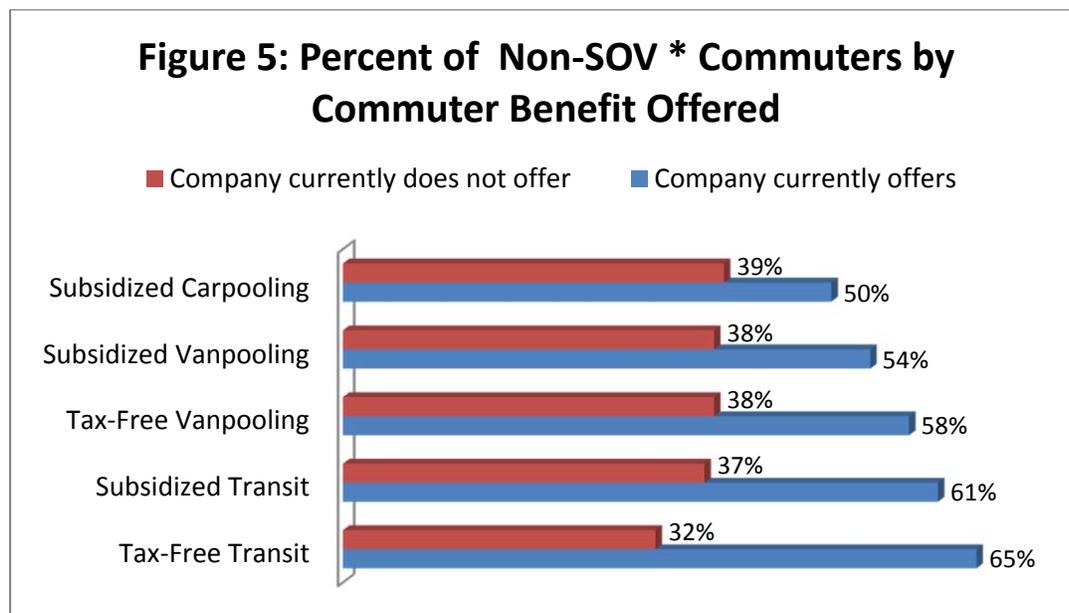
Employers provide commuter benefits in many metropolitan areas throughout the United States. Research indicates that employer-provided commuter benefit programs are effective in increasing the use of alternative commute modes among employees at companies that offer these programs. The *2010*

⁷ Internal Revenue Code section 132(f) allows employers to provide up to \$245 per month to employees for qualified parking expenses; this includes parking at the worksite or near the location from which the employee commutes to work (such as at a park-and-ride lot or at a transit station).

⁸ The *2010 Commuter Benefit Impact Survey* found that 21% of the 1,500 employers surveyed in the New York, Chicago, and San Francisco metropolitan areas were offering the pre-tax transit benefit in 2010. According to the March 2012 Employer Benefits Survey performed by the US Bureau of Labor Statistics, 11% of employers (all sizes) in the Pacific region currently offer commuter subsidies to their employees. Larger employers, especially those with 500 or more employees, are most likely to offer commuter subsidies. See <http://www.bls.gov/ncs/ebs/benefits/2012/ownership/civilian/table24a.htm>.

⁹ See *2010 Commuter Benefit Impact Survey*. <http://www.transitcenter.org/images/CBIS.pdf>

Commuter Benefit Impact Survey, which analyzed the effectiveness of commuter benefits among 1,500 employers in the New York, Chicago, and San Francisco areas, found that the percentage of employees who use an alternative commute mode is much greater when employers offer commuter benefits, as shown in Figure 5. For example, the use of alternative modes was twice as likely (65 percent versus 32 percent) at employers who provide tax-free transit (i.e., the pre-tax transit, which corresponds to Option 1 in the proposed Bay Area Commuter Benefits Program).



* SOV = single-occupant vehicle

The *2010 Commuter Benefit Impact Survey* also found that among employers who offer commuter benefits, 72% believe that this increases employee job satisfaction, 64% see the benefits as helpful in retaining their current employees, and 61% see the benefits as useful in recruiting new employees.

A report by the Transit Cooperative Research Program (TCRP) synthesized the findings of various studies that analyzed the effectiveness of commuter benefit programs in various regions throughout the U.S.¹⁰ Key findings from the TCRP report include the following:

- Transit ridership generally increases 10 percent or more when employers provide commuter benefits. However, the percentage increase varied greatly among the surveys. The increase in transit mode varied from 2 percent to 17 percent compared to the initial baseline.
- The effectiveness of commuter benefit programs in changing commute mode depends upon various factors, including transit availability, the level (if any) of subsidy provided by the employer, and supporting programs such as a guaranteed-ride-home program.

¹⁰ Transit Cooperative Research Program, Report # 107, *Analyzing the Effectiveness of Commuter Benefit Programs*. 2005

- Existing transit riders are also able to take advantage of transit benefit programs. Typically 10 to 40 percent of transit benefits recipients were new to transit, while the remainder of commuters who take advantage of the benefits had already been riding transit.
- A significant portion (up to 35 percent) of transit benefit recipients reported that they increased their use of transit for both commute and non-commute trips.
- Most commuters who switched to transit in response to commuter benefit programs were previously driving alone to work.
- Employers who complement their commuter benefits with supporting measures, such as marketing and guaranteed-ride-home programs, see greater increases in transit ridership than those who simply implement the commuter benefit by itself.

E. Senate Bill 1339

Senate Bill 1339 (Yee), which was signed by the Governor in fall 2012 and codified as Section 65081 of the California Government Code, authorizes the Bay Area Commuter Benefits Program. SB 1339 won support from a wide range of stakeholders, including a variety of business groups, organized labor, environmental groups, public health organizations, transit agencies, and several Bay Area cities. The bill authorizes the Air District and MTC to require employers with 50 or more full-time employees in the Bay Area to offer commuter benefits to their employees. Employers can choose from several options that are described in Section 3D: Commuter Benefit Options.

The legislation authorizes the Air District and MTC to jointly adopt and implement a pilot commuter benefits program for the Bay Area during the period from January 1, 2013 through December 31, 2016. The Air District and MTC are required to submit a report to the Legislature by July 1, 2016 describing the results of the Program in terms of increasing the number of employers that offer commuter benefits, reducing drive-alone commute trips to Bay Area worksites, and decreasing emissions of greenhouse gases.

F. Current Bay Area Context

Many Bay Area employers, especially large companies and organizations, already offer various services and incentives to encourage the use of alternative commute modes. Various employer assistance programs and services exist to help Bay Area employers develop and implement effective programs. In designing the Bay Area Commuter Benefits Program, the Air District and MTC intend to complement and build upon these existing programs. A brief summary of current programs and services to promote commuter alternatives is provided below.

Employer Assistance Programs: At the regional scale, MTC administers the 511 program. The Rideshare component of the 511 program provides information and assistance to employers and to individual

commuters to promote ridesharing and other commute alternatives throughout the region. In addition, five Bay Area counties offer local programs to serve employers and individual commuters within their areas. These local programs include a program administered by the San Francisco Department of the Environment; the Peninsula Traffic Congestion Relief Alliance, serving San Mateo County; the Solano-Napa Commuter Information Program; as well as the 511 Contra Costa program serving Contra Costa County. These programs provide a variety of services to promote the use of alternative commute modes, including rideshare matching, vanpool formation assistance, incentives to commuters to try alternative commute modes, and guaranteed ride programs. These existing programs would be available to assist employers in complying with this proposed Program, for example by helping employers evaluate the commuter benefit options and select and implement an appropriate commuter benefits option.

Employers with Existing Commuter Benefit Programs

Many Bay Area employers already provide information, services, or benefits to encourage their employees to use alternative commute modes. However, the scope of these efforts varies greatly. For example, some employers offer relatively modest commuter benefits based on the federal tax code provisions described in Section 2C. At the other end of the spectrum, a small number of large employers operate their own transportation services providing door-to-door bus service (for example, from San Francisco to corporate sites in Silicon Valley), vanpool programs, and/or shuttle services to provide a link between a nearby transit station and their worksite. Employers who already offer commuter benefits may be motivated to provide these programs by a variety of factors, including a recognition that commuter benefits can be an important factor in employee recruitment and retention; the need to address specific issues at their worksites, such as insufficient parking, or a desire to use land currently dedicated to employee parking for other purposes; and a recognition of their environmental benefits.

Transportation Management Associations (TMAs): In addition to commuter programs offered by individual employers, a number of TMAs have been established in the Bay Area. TMAs typically provide commuter information and services to multiple employers in a specific office park or geographic area. TMAs are particularly well-suited to multi-tenant business parks that have a number of individual employers in a single complex. Pursuant to SB 1339, the proposed rule provides that an employer may comply with Program requirements by participating in a TMA that offers one (or more) of the specified commute benefit options to its employees.

Local Commuter Benefit Ordinances

In recent years, several Bay Area cities have adopted local ordinances that require employers to offer commuter benefits, as shown in Table 1. These ordinances, which served as the model for SB 1339, allow the employer to select from several commuter benefit options. While their substantive requirements are very similar to the requirements of SB 1339, the local ordinances have more stringent applicability thresholds, as they apply to employers with either 10 or 20 employees nationwide that have a worksite in the relevant city. The Air District and MTC are working with the Bay Area cities that already have adopted

commuter benefit ordinances to coordinate the implementation of the regional Program with the local ordinances in order to simplify reporting for Bay Area employers, especially those with worksites in multiple jurisdictions. The preferred concept can be summarized as follows: All employers that are subject to the regional Program by virtue of having 50 or more full-time employees in the Bay Area would report to the regional agencies. The regional agencies would share information with the local cities regarding the worksites within their respective jurisdictions. The cities would continue to implement their local ordinances for smaller employers that are not subject to the regional Program. The Air District and MTC expect to reach agreement with the local cities to implement this concept prior to launching the regional Program.

Table 1: Commuter Benefits Ordinances Adopted by Bay Area Cities

Jurisdiction	Applicability Threshold	Effective Date of Ordinance
City & County of San Francisco	20 or more employees nationwide	January 19, 2009
San Francisco International Airport	20 or more employees nationwide	July 7, 2009
City of Berkeley	10 or more employees nationwide	December 2009
City of Richmond	10 or more employees nationwide	December 8, 2009

3. KEY PROVISIONS OF THE PROPOSED PROGRAM

This section describes key provisions of the proposed Program, including applicability, definitions of key terms, and basic requirements.

A. Applicability

As defined in SB 1339, the Bay Area Commuter Benefits Program would apply to all employers (private sector, public sector, and non-profit) with 50 or more full-time employees within the jurisdiction of the Air District.¹¹ This threshold is based on the total number of employees at all Bay Area worksites combined for each respective employer. An employer with 50 or more full-time employees in the Bay Area would be subject to the Program, regardless of how the employees are distributed among worksites. For example, an employer with 10 full-time employees at each of five Bay Area worksites, for a total of 50 Bay Area full-time employees, would be subject to the Program. Data provided by the California Employment Development Department (EDD) indicate that there are approximately 10,000 employers in the Bay Area with 50 or more employees. The EDD data also show that employers with 50 or more employees account for approximately 60 percent of total employment in the region.¹²

¹¹ The District’s jurisdiction consists of nine counties, including all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties, as well as the western portion of Solano County and the southern portion of Sonoma County. See https://mapsengine.google.com/map/edit?mid=zEtIldN2taQk.kBcuja_KVQNU

¹² EDD data for 3rd quarter 2011.

B. Key Definitions

Employee: For purposes of the Program, the proposed rule defines an employee as anyone who is treated as an employee for tax purposes; i.e., anyone who receives a W-2 form from the employer. Independent contractors would not be counted as employees.

Full-time employee: SB 1339 bases the applicability threshold upon the number of “full-time employees”, but the bill does not define this term. The proposed rule defines “full-time employee” as an employee who worked an average of at least 30 hours per week during the previous calendar month, excluding a seasonal/temporary employee.¹³

Covered employee: Consistent with SB 1339, the proposed rule defines a “covered employee” as an employee who worked an average of 20 or more hours per week within the previous calendar month excluding a seasonal/temporary employee. Employers that are subject to the Program because they have 50 or more full-time employees in the Bay Area would be required to make their commuter benefits available to all covered employees (i.e., any employee who works an average of 20 hours or more per week).

Seasonal/temporary employee: The proposed rule proposes to exclude seasonal and temporary employees. A “seasonal/temporary employee” is defined as an employee who works for the employer 120 days or less within the calendar year.

C. Key Requirements of the Proposed Program

The Program would require employers to do the following:

- Designate a Commuter Benefits Coordinator (as defined in Sections 14-1-204 and 14-1-403) to implement the employer’s commuter benefits program and comply with the requirements of the Program. (It is anticipated that this role will typically be assigned to an employee already handling payroll and benefits).
- Select one of the commuter benefit options defined in Section 14-1-300 or 14-1-301 (see below).
- Submit a registration form to the Air District/MTC specifying which commuter benefit option the employer will provide.
- Notify employees of the commuter benefit option selected and make the benefit available to all eligible employees.
- Update their registration information on an annual basis.
- Maintain records to document implementation of the commuter benefit.
- Provide information requested by the Air District/MTC for Program evaluation purposes.

¹³ This is consistent with the IRS definition of “full-time employee” for purposes of health insurance coverage. See IRS Notice 2012-58: *Determining Full-Time Employees for Purposes of Shared Responsibility for Employers Regarding Health Coverage*.

Pursuant to SB 1339, if an employer participates in a Transportation Management Association (TMA) that provides commuter benefits that comply with the Program, the TMA may represent the employer for purposes of fulfilling the requirements defined in the rule.

D. Commuter Benefit Options

Consistent with the provisions of SB 1339, the proposed Program defines three basic commuter benefit options, as well as the option for an employer to implement an alternative benefit (Section 14-1-300 of the proposed rule). These four options are described below.¹⁴

Option 1: Pre-Tax Option: The employer allows employees to exclude their transit or vanpool expenses from taxable income, up to the maximum amount allowed by federal law. This option is based upon Section 132(f) of the Internal Revenue Code.¹⁵ The maximum amount that may be excluded from taxable income is currently \$130 per month.

Option 2: Employer-Provided Subsidy: The employer provides a subsidy to cover the employee's monthly transit or vanpool cost. For purposes of the Program, if the employee's monthly cost is greater than \$75 per month, then the maximum required subsidy for Option 2 is \$75 per month. For future years, this maximum required subsidy amount will be indexed to inflation on an annual basis consistent with the California Consumer Price index. An employer may choose to offer a higher subsidy amount (i.e., more than \$75 per month) on a voluntary basis. An employer may also elect to provide a subsidy for bicycle commuting costs in addition to subsidies for transit and vanpool costs.

Option 3: Employer-Provided Transportation: The employer provides free or low-cost commuter transportation service for its employees. This could include any or all of the following: bus or vanpool service from the employee's home community to the worksite, or a shuttle service from a nearby transit station(s) to the worksite. The transportation service can be provided for use strictly by employees at a single employer, or shared by multiple employers. SB 1339 calls for the Air District and MTC to define "low cost" for purposes of Option 3. The agencies will define "low cost" for purposes of Option 3 in guidance materials, based on average transit fares in the region.

¹⁴ An employer may choose to offer more than one of the benefits, or to offer more generous benefits than the minimum specified in the rule. For example, an employer may elect to provide a transit/vanpool subsidy greater than \$75 per month. Or an employer who provides a subsidy of up to \$75 per month for transit and vanpools (Option 2) may also allow employees whose transit or vanpool fares exceed \$75 per month to pay the remaining portion of their cost using pre-tax dollars (Option 1).

¹⁵ Senate Bill 1339 also references bicycle commuting in regard to the pre-tax option. IRS Code 132(f) allows employers to provide a tax-free subsidy of up to \$20 per month (\$240 per year) to offset an employee's bicycle commuting expenses (the purchase of a bicycle, and bicycle maintenance or storage). However, the IRS Code does not allow employees to use pre-tax dollars to pay for bicycle commuting expenses. Therefore, bicycle commuting is not included in Option 1 for purposes of the proposed rule. However, an employer may choose to offer a subsidy for bicycle commuters either as an element of an alternative commute benefit pursuant to Option 4, or as a voluntary measure in addition to offering Option 1, 2, or 3.

Option 4: Alternative Commuter Benefit: SB 1339 states that, in lieu of choosing one of the three options described above, an employer may propose an alternative commuter benefit that would provide at least the same result in reducing single-occupant vehicle trips as any of the three options defined in SB 1339. The Air District and MTC will provide guidance to define the evaluation criteria and the review process for Option 4. To facilitate Option 4, the Air District and MTC will identify several “pre-approved” alternative options. This will expand the menu of options available to employers, assist employers who are interested in pursuing an alternative approach, streamline the Option 4 review and approval process, and provide clarity as to the type of alternative benefits that will be deemed equivalent to the three options defined in SB 1339 in reducing single-occupant vehicle trips to worksites. In addition to any “pre-approved” alternatives, employers will have the flexibility to submit their own proposed alternative benefit for review and approval by the agencies.

The Air District and MTC believe that Option 4 may be appropriate for certain employers and worksites. The three options defined in SB 1339 focus on promoting transit and vanpooling, because the federal commuter tax benefits primarily address these modes. However, many Bay Area commutes are not well served by transit, and vanpool programs, which are most viable at large worksites with a common work schedule, may not be appropriate in all contexts. Therefore, other alternative commute modes may be more effective in reducing single-occupant vehicle trips at certain worksites. For example, carpooling can be viable in a wide range of worksite sizes and geographic settings, and bicycling is an increasingly popular commute mode throughout the region. Telecommuting and compressed work week schedules may also be effective means to reducing commute trips, especially at worksites that are not well served by transit.

4. PROGRAM IMPLEMENTATION

The Bay Area Commuter Benefits Program will apply to a large and diverse set of employers, many of whom do not yet offer any of the commuter benefit options defined in the rule. Therefore, the Air District and MTC will provide information and assistance to help employers understand and comply with the requirements of the Program. Air District and MTC staff are working together to lay the groundwork for successful implementation of the Program. Key tasks include developing a database that will be used to notify employers about the Program and its requirements, creating an on-line registration system, and preparing employer assistance materials to help employers select an appropriate commuter benefit that meets the needs of their employees. The agencies plan to use the 511.org website to house the home page for Program information and implementation.

Guidance Documents

The Air District and MTC will develop guidance documents to complement the rule. The guidance documents will provide additional detail to explain key provisions of the rule. Some of the topics that will be addressed in guidance documents include the following:

- Calculating the number of full-time employees at a business (for purposes of determining whether an employer is subject to the rule).
- Defining the term “low cost” for purposes of Option 3 (employer-provided transportation).
- Defining the process for an employer to propose an alternative commute benefit (Option 4), and the criteria that will be used to evaluate such proposals. The guidelines will also describe “pre-approved” alternatives that have been evaluated and approved in advance by Program staff.

Employer Assistance

The 511 Regional Rideshare program will provide information and assistance to help employers understand Program requirements and implement effective commuter benefit programs, including web-based materials to:

- Describe basic Program requirements and the various commuter benefit options.
- Help employers evaluate the commuter benefit options and select an appropriate option for the employer’s worksite(s) and work force.
- Define the key steps required to implement the three basic options, or the alternative commute benefit option (Option 4).

Registration Process

The employer registration process will be web-based. The employer will access the registration web page and input the required information. Employers will be required to register at the outset of the Program and indicate which commute benefit option they will provide, and then to update their registration information on an annual basis. In addition to the on-line registration system, the agencies may make alternative means of registration available for employers that do not have the capacity to register on-line.

Compliance

The Air District and MTC will encourage compliance by means of outreach, education, and assistance to employers. Assistance will be provided to help those employers that do not already have commuter benefits programs (see above). Enforcement will be pursued only in the event that an employer refuses to implement any of the commuter benefit options. Failure to comply with Program requirements may result in enforcement action by the Air District using the civil enforcement powers granted to it by California Health & Safety Code section 42402.

5. ANTICIPATED OUTCOMES

Section 5 describes the anticipated costs and benefits of the proposed Program, including compliance costs to employers; potential savings to employers and employees; socio-economic impacts; emission reductions; and cost-effectiveness; as well as the potential environmental, social, and economic benefits to all Bay Area residents.

A. Compliance Costs and Potential Savings for Employers

This section describes the costs and savings associated with the various commuter benefit options. As discussed in Section 3D, employers can choose among four commuter benefit options. The potential costs and the potential savings to employers will both depend upon which commuter benefit option the employer selects, and the number of employees who choose to utilize the benefit.

Many Bay Area employers already offer commuter benefits programs that would meet the requirements of the proposed Program; these employers would experience only very modest costs to register and provide basic information about their existing program. Employers that do not already provide commuter benefits programs would experience compliance costs to evaluate the commuter benefit options, set up their programs, register, notify their employees about the commuter benefits, and administer the program on an on-going basis. The Air District and MTC will endeavor to minimize these costs by providing employer assistance, and by streamlining reporting processes.

Employers may experience both direct and indirect savings in response to the Program. Employers can experience direct savings based on the commuter benefit provisions or other applicable provisions in the federal tax code.¹⁶ In addition to the potential payroll tax savings, employers may experience a variety of indirect benefits such as the following:

- Enhanced employee recruitment and retention
- Enhanced employee productivity (due to reduced commute stress and time savings)
- Reduced health care costs in response to better air quality
- Reduced goods movement costs (due to reduced traffic congestion)

The potential costs and savings for each of the four commuter benefit options are described below.

Option 1 (pre-tax commuter benefit): Employers that choose Option 1 would comply with the Program by allowing employees to exclude their transit or vanpool costs from taxable wages. Employers would incur only modest costs to administer Option 1. The employer could administer the pre-tax benefit in-house, or use an outside vendor that specializes in administering commuter benefits for employers.

¹⁶ The information provided in this document regarding potential tax savings to employers or individual commuters is based upon Air District staff's understanding of relevant provisions of the tax code. However, since circumstances may vary, employers should consult an attorney or professional tax advisor for tax advice.

Available information indicates that these vendors generally charge approximately \$3-\$5 per employee per month for each participating employee (i.e., those employees who choose to set aside a portion of their pre-tax salary to cover transit or vanpool costs). However, at least one vendor provides vouchers that can be used to administer Option 1 at zero cost to the employer, so some employers may be able to entirely avoid administrative costs for Option 1.

The employer's payroll tax savings will typically exceed the administrative costs to implement Option 1. The employer pays no Social Security (6.2%) or Medicare tax (1.45%) on the portion of salary that employees use to purchase their transit or vanpool fare; this represents a savings of 7.65% multiplied by the value of the transit or vanpool fare. In addition, the employer may also experience savings on its state and city payroll taxes (if applicable), which include the State Unemployment Insurance (SUI) and State Disability Insurance (SDI) taxes. When taking into account state and /or city payroll taxes, employers can save approximately 9% on the portion of their employee's salary which is used to purchase transit or vanpool fares. The monthly savings to the employer would range from approximately \$6.75 per month per participating employee (based on a transit or vanpool fare of \$75 per month) to \$11.70 per month (based on the \$130 per month contribution limit that is expected to apply in year 2014). It should be noted that the employer would experience a reduction in payroll taxes not only for employees who switch commute mode in response to the Program, but also for employees who were already commuting by transit or vanpool before the employer made the pre-tax commuter benefit available.

When payroll tax savings are compared to administrative costs, most employers who select Option 1 should experience a net savings as a result of the Program.¹⁷ However, an employer may experience a cost to implement Option 1, rather than a net savings, in the event that no (or very few) employees choose to take advantage of the pre-tax option. In such a case, the employer would experience modest costs to review the commuter benefit options and register with the Program, but might not realize sufficient payroll tax savings to offset its compliance costs.

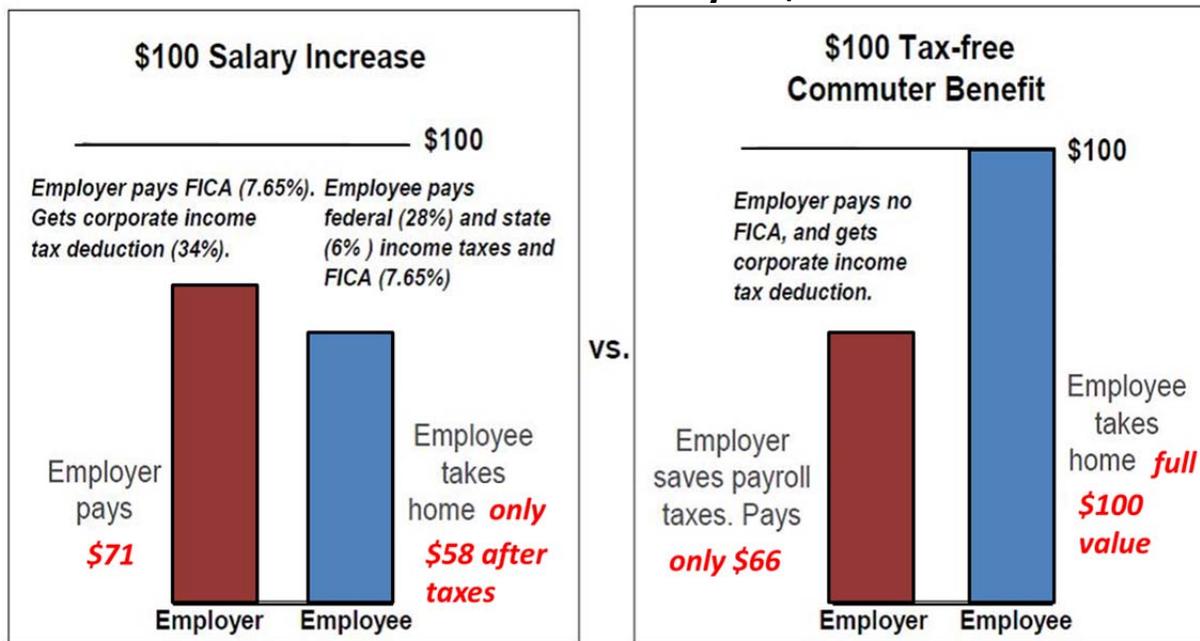
Option 2 (employer-provided transit/vanpool subsidy): For employers that choose Option 2, the amount of the employer-provided subsidy will be based on the employee's monthly transit or vanpool fare. Pursuant to SB 1339, the required subsidy amount will be capped at a maximum of \$75 per month (in 2013 dollars). The cost for Option 2 will depend primarily on the number of employees who choose to commute by transit or vanpool. An employer that offers Option 2 would incur costs of approximately \$9,600 per year (including administrative costs) for every ten employees who receive a \$75 monthly subsidy for commuting by transit or vanpool. The employer does not pay payroll taxes on the transit/vanpool subsidy.

Although the cost to implement Option 2 will be higher than Option 1, some employers may choose to offer Option 2 because it provides a very tax-efficient way to improve an employee compensation package. Providing a transit/vanpool subsidy is more cost-effective than providing a salary increase of the

¹⁷ Employers that do not pay Social Security taxes, such as some public agencies in the Bay Area, would still save by not paying Medicare taxes, but these employers would not experience the full payroll tax savings described above.

same amount. As shown in Figure 6, comparing the after-tax value of a \$100 per month transit subsidy versus a \$100 per month pay increase, the employer and the employee both come out ahead with the transit subsidy. The employee receives the full \$100 value of the transit subsidy, compared to only \$58 in the case of the pay increase. The employer also comes out ahead in this scenario because it does not incur payroll taxes on the transit/vanpool subsidy.

Figure 6: Comparison of Taxable Salary Increase to Employer-Paid Tax-Free Subsidy of \$100



Source: Transit Cooperative Research Program, Report # 87, *Strategies for Increasing the Effectiveness of Commuter Benefits Programs*. 2003. http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_87.pdf

Option 3 (employer-provided transportation): Employers who select Option 3 could choose to provide any or all of the following: bus service from the employee’s home community to the worksite, a vanpool program, or a shuttle service from one or more transit stations to the worksite. The cost to offer employer-provided transportation as defined in Option 3 will vary significantly depending upon a variety of factors, including the size of the employer; the number of employees participating; the specific transportation services provided; the number of routes, vehicles and hours of service provided; the location(s) of residential areas served; whether employees pay part of the cost, etc.

Providing door-to-door bus service or shuttle service from a transit station can be expensive. Research by Air District staff indicates that providing bus service in comfortable, well-appointed buses costs in the range of \$10 to \$20 per employee per day. Providing a commuter bus service of modest scale would cost on the order of \$200,000 per year; an employer that operates a large-scale commuter bus program could easily incur costs of several million dollars per year or more. Shuttle services generally cover relatively short distances, using vehicles with capacity in the range of 20-25 passengers. Shuttle operating costs are

in the range order of \$50 to \$80 per vehicle per hour. A modest shuttle program could cost in the range of \$125,000 to \$150,000 per year; costs would increase as the number of vehicles or routes expands.

Although employer-provided transportation can be an expensive proposition, employers that choose Option 3 may be able to reduce or defray their costs. Employers may be able to deduct the costs of their commuter transportation programs as a business expense for tax purposes. Employers may also be able to reduce their costs by providing a shared bus or shuttle service in collaboration with other nearby businesses, or by purchasing seats on an existing transportation service for employees. In addition, employers that select Option 3 could recoup a portion of their costs by charging employees a modest user fee to employees who use the bus or shuttle.¹⁸ However, available information indicates that among employers who currently provide bus or shuttle service for their employees, very few currently charge a fee to users.

Per IRS Code Section 132(f), employer-provided transportation in a “commuter highway vehicle” (such as a bus, shuttle vehicle, or vanpool) is treated as a “qualified transportation fringe benefit.” This means that the employee does not pay taxes on the value of the employer-provided transportation, nor does the employer have to pay payroll taxes on the value of this benefit.

Option 4 (alternative commuter benefit): This option allows an employer to propose an alternative commuter benefit that would be as effective as Options 1, 2, or 3 in reducing vehicle trips to the worksite. In response to input from employers, the Air District and MTC will define several “pre-approved” alternatives for Option 4 in the guidance documents that complement the rule. The “pre-approved” alternatives will focus on low-cost measures to promote the use of carpools, biking, walking, telecommuting, compressed work week schedules, and electric vehicles at worksites that may not be well served by public transit. In addition, employers will have the option to propose their own alternative benefit, including combining various elements of the “pre-approved” alternatives.

There are many potential alternative commuter benefits, and various ways that specific measures can be combined or packaged to craft a program suited to a specific worksite. Therefore, it is difficult to estimate the cost and/or savings for employers that choose Option 4 at this time. Some measures that an employer provides pursuant to Option 4 may qualify for tax savings as “qualified transportation fringe benefits.” But because the federal commuter tax benefits are focused primarily on transit and vanpooling, employers who choose Option 4 may not qualify for direct tax savings pursuant to IRS Code Section 132(f). However, at a minimum, employers may be able to deduct costs of an alternative commuter benefit as a business expense for tax purposes.

¹⁸ Any such fee would need to be “low cost” as defined by the Air District and MTC. A definition of “low cost” will be provided in the guidance materials that the Air District and MTC issue to complement the rule.

B. Which Options will Employers Choose?

The Program allows employers to choose among several commuter benefit options that have a range of potential costs (and savings) to the employer. Because the Program provides options, employers can exercise significant control over their compliance costs. It is unlikely that any employer would choose to implement one of the higher-cost options if this would endanger its profitability or competitiveness.

Option 1 should provide net savings for most employers, whereas employers that choose Option 2 or Option 3 would typically incur higher costs. In addition to costs (or savings), employers may consider a variety of factors in choosing a commuter benefit option. For example, some employers may consider factors such as parking constraints at the worksite, or the value of commuter benefits in recruiting and retaining employees in a competitive job market. However, basic economic principles suggest that for purposes of complying with a regulatory requirement, employers will generally choose the lowest cost option, unless they have business reasons of their own for choosing a higher cost alternative.

Therefore, for the purposes of analyzing both the potential emissions reductions and the socioeconomic impacts of the Program, this analysis assumes that employers will choose Option 1 (the pre-tax option). This assumption is based upon the fact that (1) Option 1 has the lowest cost to employers, (2) many employers may actually realize a net savings when their tax savings are compared to administration costs, and (3) Option 1 is relatively easy to set up and administer. Very few employers are expected to select a relatively costly option, such as Option 3, merely to comply with the requirements of the Program. Empirical information from the San Francisco program supports this assumption. Most employers (84%) of the employers who comply with the City of San Francisco commuter benefits ordinance choose to offer the pre-tax benefit.¹⁹ Only 2% of San Francisco employers choose Option 3. The few employers that do choose to comply by means of Option 3 were already providing transportation to their employees for their own business reasons before the San Francisco ordinance was adopted.²⁰ The employers that currently provide direct transportation services for their employees are typically large corporations or institutions which offer these services to address specific needs or problems (e.g. lack of parking at the worksite), or because they view their transportation program as an important tool for purposes of employee recruitment, productivity, and retention.

C. Positive Outcomes for Employees

Bay Area commuters should benefit greatly from the Program. The Program is expected to provide economic benefits to both (1) employees who switch from driving alone to transit or vanpool in response to the Program and (2) employees who already commute by transit or vanpool, but work for employers

¹⁹ 79% of San Francisco employers offer Option 1, with another 5% offering Option 1 in combination with Option 2.

²⁰ Staff in local cities that implement the commuter benefit ordinances (San Francisco, Berkeley, Richmond, and San Francisco International Airport) indicate that they are not aware that any employers have established employer-provided transportation programs strictly for purposes of complying with their local ordinances.

that do not yet offer a commuter benefit. Employees working at Bay Area employers that do not yet offer any of the commuter benefit options defined in the Program will gain parity with their fellow commuters who already enjoy these benefits.

The savings to employees will depend upon which option the employer offers to its employees, the commute mode chosen by the employee, the monthly cost of the commute mode, and the employee's tax bracket. Employees who become eligible to use pre-tax dollars to pay for transit or vanpool fares (Option 1) can save \$600 or more per year, based on a cap of \$130 per month. Employees of companies that elect to offer a direct subsidy (Option 2) can receive \$900 (12 X \$75 per month) tax-free per year. The employee may save even more if the employer chooses to offer Option 1 as well as Option 2. In addition to the tax savings that reduce employees' transit or vanpool costs, commuters who switch from driving alone may realize considerable savings in terms of reduced vehicle operating costs.²¹

In addition to reducing commute trips, the Program may have indirect benefits by reducing motor vehicle use for other types of trips as well. Employees who switch to transit may increase their use of transit for other trip purposes, as they become more familiar with transit options.²² Commuter benefits may even enable some employees to forego ownership of a personal vehicle. This could yield significant cost savings to the employee (by eliminating the cost of vehicle ownership, insurance, maintenance, registration and fuel costs) and additional reductions in emissions of air pollutants and greenhouse gases. Employees may also experience a variety of non-monetary benefits from the Program. For example, they may experience reduced commute stress, and enjoy the flexibility to work or relax while riding transit.

D. Positive Outcomes for Bay Area Residents

The Program will provide positive outcomes for Bay Area residents. By improving air quality (as discussed in Section 5F), the Program will protect public health, reduce health care costs, improve productivity, and enhance the overall quality of life in the region. Studies show that emissions of air pollutants from motor vehicles cause or exacerbate a wide range of health effects, including respiratory disease such as asthma, bronchitis, and emphysema, as well as cardiovascular disease that are linked to premature mortality, such as atherosclerosis, strokes, and heart attacks. Analyses find that the health-related costs of air pollution exceed \$10 billion per year in the Bay Area, including direct medical costs, lost productivity, and "willingness to pay" to avoid premature mortality.²³ By decreasing commute trips and motor vehicle emissions, the Program will reduce the negative health effects from air pollution. In the long run, this may reduce health costs and health insurance premiums for employers, as well as health care expenses to

²¹ A drive-alone commuter with an average trip length of 15 miles one-way will drive 7,500 miles per year for commute purposes. Based on the current IRS mileage rate of \$0.56 per mile, a drive-alone commuter who switches to an alternative mode can potentially save \$4,200 per year on average in driving expenses previously incurred for commute purposes.

²² Transit Cooperative Research Program Report #107 found that a significant portion (up to 35 percent) of transit benefits recipients reported increasing their use of transit for both commute and non-commute trips.

²³ See the health burden analysis in Volume I, Appendix A of the *Bay Area 2010 Clean Air Plan*.

Also, see *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (Sept 2011).

employees and their families. Also, the Program will reduce emissions of greenhouse gases in the Bay Area, a region which is highly vulnerable to the impacts of climate change.

Traffic congestion and air pollution both impose major economic and social costs on the Bay Area. Therefore, the modest reductions in traffic congestion and air pollution expected from the Program should provide substantial economic benefit to the region. According to the *2012 Urban Mobility Report* issued by the Texas Transportation Institute, the annual cost of congestion to the Bay Area (including auto delays, truck delays, and excess fuel consumption) is \$4.25 billion. On an individual basis, traffic congestion costs the average Bay Area commuter \$1,266 per year.²⁴ Because commute trips account for a major share of rush-hour traffic, and even a modest reduction in traffic volumes can provide substantial reductions in congestion,²⁵ the Program may provide savings in time and money for all Bay Area residents. Finally, as noted in the socio-economic analysis (see below), the Program is likely to benefit the regional economy by putting more dollars back into the pockets of Bay Area employers and employees.

E. Socio-Economic Impacts

The Air District commissioned a socio-economic analysis of the proposed commuter benefits rule, as required by Section 40728.5 of the California Health and Safety Code. The report was prepared by BAE Urban Economics of Emeryville, California, and is attached as Appendix B of this staff report. One of the main purposes of the socio-economic analysis is to determine whether a rule would impose a substantial economic burden on the business community as a whole, or on any specific company or industry. The socio-economic analysis examined the potential impacts of the rule on small businesses; specific industries categorized into 19 sectors; the employer community as a whole; and the overall Bay Area economy. As noted above, the analysis was based on the assumption that employers will comply by choosing Option 1. Key findings from the analysis are as follows:

- Employer tax savings would exceed employer compliance costs in 17 of 19 sectors. Compliance costs would not exceed 0.1% of annual profit in any business sector.
- The Program would not have a significant impact on profits among small employers. Even in a “worst case” scenario (in which a small business incurs compliance costs, but receives no tax benefit because no employees take advantage of the pre-tax benefit), the Program would not cause a significant impact on employer profits.
- The Program would result in direct savings of \$3.8 million per year due to the tax savings that would accrue to Bay Area employers. The direct savings to employers would provide economic

²⁴ This includes \$3.38 billion for the San Francisco-Oakland area, plus \$970 million for the San Jose area. Texas Transportation Institute, *2012 Urban Mobility Report*.

²⁵ For information on the relationship between traffic volume and congestion, see the “Congestion Reduction Strategies” page on the Victoria Transportation Policy Institute website: <http://www.vtpi.org/tdm/tdm96.htm>.

benefits of approximately \$30 million per year to the Bay Area (direct, indirect, and induced impacts combined), resulting in creation of 200 new jobs per year.

- The tax savings that accrue to employees who change commute mode as a result of the Program would provide economic benefit to the Bay Area on the order of \$84 million per year (direct, indirect, and induced impacts combined), resulting in creation of approximately 610 new jobs per year.

The figures provided above are based only on the tax savings that would accrue to employers and employees when employees change commute mode in response to the Program. However, by increasing the number of employers who make the commuter tax benefits available, many employees who already commute by transit or vanpool would also be able to exclude their transit or vanpool costs from taxable wages. Therefore, the actual tax savings and economic benefits may be greater.

F. Emission Reductions

By expanding the number of employers who offer commuter benefits, the proposed Program will reduce motor vehicle trips and emissions in the Bay Area. An analysis performed by ICF International (*Commuter Benefits Sketch Analysis*, June 25, 2013) provides an estimate of the potential emission reductions from the Program, based on the assumption that employers will choose to comply by offering Option 1. The analysis estimates that the Program would increase transit ridership by 7% among employees at worksites covered by the Program in year 2015. This would translate to a 2% reduction in the single-occupant vehicle (SOV) commute trips to worksites covered by the Program.²⁶ Table 2 and Table 3 show the estimated reduction in SOV commute trips, vehicle miles of travel (VMT) for commute trips, CO₂ (the leading greenhouse gas), and key criteria air pollutants for year 2015 and year 2035 at the regional scale. The percentage reductions in SOV trips and commute VMT are expressed in comparison to commute trips to all Bay Area worksites, including smaller employers that would not be covered by the Program.

Table 2: Year 2015 Region-wide Reductions in Daily SOV trips & VMT, and Annual Emissions (in metric tons) as a result of the Commuter Benefits Program

Daily SOV Commute Trips	Daily Commute VMT	CO ₂ Annual (MT)	ROG Annual (MT)	NO _x Annual (MT)	PM ₁₀ Annual (MT)	PM _{2.5} Annual (MT)	CO Annual (MT)
-0.6%	-0.3%	-12,714	-2.8	-5.9	-0.1	-0.1	-62.4

²⁶ The ICF analysis estimates that the effectiveness of the Program would increase over time. Assuming the Program is still in place in year 2035, the share of employees using transit would increase by 20% compared to the current baseline. This would translate to a 7% reduction in SOV commute trips to worksites covered by the Program in 2035.

Table 3: Year 2035 Region-wide Reductions in Daily SOV trips & VMT, and Annual Emissions (in metric tons) as a result of the Commuter Benefits Program

Daily SOV Commute Trips	Daily Commute VMT	CO ₂ Annual (MT)	ROG Annual (MT)	NO _x Annual (MT)	PM ₁₀ Annual (MT)	PM _{2.5} Annual (MT)	CO Annual (MT)
-2.5%	-1.1%	-47,957	-4.6	-8.9	-0.3	-0.3	-100.5

The estimated emission reductions described above are based on direct reduction in motor vehicle travel only. However, by decreasing traffic congestion, the Program may provide additional emissions reductions which are not quantified in these estimates. Emissions of CO₂ and other tailpipe pollutants are substantially higher when vehicles are idling in traffic. Since commute trips account for a large percentage of vehicle traffic during weekday peak periods, and even a small reduction in traffic volumes can provide a significant reduction in congestion, the Program may yield additional emission reductions that are not captured in these estimates.

The benefit in reducing emissions related to traffic congestion should also be considered from a preventative perspective. Many Bay Area corridors are already highly congested during peak periods. As economic recovery creates job growth, the related increase in vehicle traffic could lead to increased congestion on major Bay Area commute routes. By helping to shift commute trips to alternative modes, the Program may help to mitigate the increase in traffic congestion and emissions that may otherwise result from future economic growth.

G. Cost-Effectiveness

Based on reasonable assumptions, the Bay Area Commuter Benefits Program is expected to reduce emissions of criteria pollutants and greenhouse gases, while providing financial benefits to Bay Area employers and employees, and a modest boost to the Bay Area economy as a whole. As discussed above, compliance costs are expected to be low for most employers; in fact, many employers may realize a net savings due to reductions in payroll taxes. Therefore, the Program appears to offer a cost-effective means to reduce emissions of air pollutants by taking advantage of the federal commuter tax benefits that are available to employers and employees.

H. California Environmental Quality Act

Pursuant to the California Environmental Quality Act, the Air District has prepared an Initial Study for the proposed commuter benefits rule. The Initial Study concludes that there are no potential significant adverse environmental impacts associated with the proposed rule. A negative declaration will be proposed for adoption by the Air District Board of Directors. The initial study and negative declaration were circulated for public comment prior to the public hearing for this rule. No comments were received. A copy of the Initial Study and Negative Declaration is attached to this report as Appendix C.

6. PROGRAM DEVELOPMENT/PUBLIC PARTICIPATION PROCESS

In the course of developing the proposed Program described in this report, Air District staff met with many business groups and employer organizations, including multiple Chambers of Commerce and economic development associations in cities and counties throughout the region. Staff also engaged with other stakeholders, including Congestion Management Agencies, Transportation Management Associations, the staff of local cities with commuter benefit ordinances, vendors that administer commuter benefit programs for employers, and Bay Area transit agencies.

The Air District issued documents to describe the draft Program in late August 2013, inviting public review and comment. Air District and MTC staff held public workshops to solicit input on the draft Program in all nine counties in October 2013. Written comments were also submitted on the draft Bay Area Commuter Benefits Program. The comments received through the workshop process were generally supportive of the objectives of the Program, as well as the approach that the Air District and MTC have followed in developing the Program. Questions and comments focused on several issues:

- The applicability of the Program; i.e., which employers and employees should be covered;
- Clarification regarding the potential tax savings or costs of the four commuter benefit options;
- Questions as to whether specific measures that employers currently provide would qualify under the various options;
- The alternative commuter benefits provision (Option 4) and the criteria that will be used to evaluate Option 4 proposals. There was considerable interest in Option 4 among employers with worksites located in areas that are not well served by public transit.

Staff carefully considered the input received in preparing the proposed Program, and revised the staff report and the proposed rule as appropriate.

The final proposed rule and staff report were posted for public review on January 21, 2014. Staff received nine written comments on the proposed rule. The comments and staff responses are provided in Appendix A.

7. CONCLUSION

Pursuant to Section 40727 of the California Health and Safety Code, in order for the Board of Directors to adopt, amend, or repeal a rule, the proposed rule must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. These required findings are provided below.

- **Necessity:** The proposed rule is necessary to protect public health by reducing emissions of criteria air pollutants and greenhouse gases from motor vehicles. The rule would help to implement Transportation Control Measure C-1 in the Bay Area 2010 Clean Air Plan. It would also help to achieve GHG reduction targets pursuant to Plan Bay Area and to the GHG reduction resolution adopted by the Air District Board of Directors in November 2013.
- **Authority:** Government Code Section 65081 authorizes the Bay Area Air Quality Management District and the Metropolitan Transportation Commission to jointly adopt a commuter benefits

ordinance within their common area of jurisdiction.

- **Clarity:** The proposed rule clearly delineates the affected industries, compliance options, and administrative requirements for employers subject to this rule, so that its meaning can be easily understood by the parties directly affected by it.
- **Consistency:** The proposed rule is in harmony, and does not conflict, with existing state and federal statutes and regulations, and existing court decisions.
- **Non-duplication:** The proposed rule does not duplicate existing state or federal statutes, rules, or regulations. As noted in Section 2F, the Air District and MTC are working with the Bay Area cities that have existing local commuter benefit ordinances to avoid duplication of requirements.
- **Reference:** The proposed rule is based upon authorizing legislation (Senate Bill 1339 - Yee, 2012) codified in Government Code Section 65081.

A socioeconomic analysis prepared by BAE Urban Economics (see Appendix B) found that the proposed Program would not have a negative economic impact nor cause regional job loss. A California Environmental Quality Act (CEQA) analysis (see Appendix C) prepared by Air District staff concludes that the proposed rule would not result in adverse environmental impacts.

The proposed Program and rule have met all legal noticing requirements, have been discussed with the impacted community, and reflect the input and comments of affected and interested parties. Staff recommends adoption of proposed Regulation 14, Rule 1 and of the California Environmental Quality Act Negative Declaration.

8. SOURCE DOCUMENTS

Bay Area 2010 Clean Air Plan. www.baaqmd.gov/Divisions/Planning-and-Research/Plans/Clean-Air-Plans.aspx

Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area (Sept 2011)
www.baaqmd.gov/Divisions/Planning-and-Research/Research-and-Modeling/Publications/Reports.aspx

2012 Urban Mobility Report, Texas Transportation Institute. <http://mobility.tamu.edu/ums/report>

Explanations of Commuter Benefits

Publication 15b, *Employer's Tax Guide to Fringe Benefits—Transportation (Commuting) Benefits*
<http://www.irs.gov/pub/irs-pdf/p15b.pdf>

Taxable Fringe Benefits Guide http://www.irs.gov/pub/irs-tege/fringe_benefit_fslq.pdf

Final IRS Regulation Concerning Qualified Transportation Fringe Benefits
<http://www.gpo.gov/fdsys/pkg/FR-2001-01-11/pdf/01-294.pdf>

Effectiveness of Commuter Benefit Programs

Transit Cooperative Research Program (TCRP) Report 87:
Strategies for Increasing the Effectiveness of Commuter Benefits Programs (2002)
http://www.trb.org/publications/tcrp/tcrp_rpt_87

Transit Cooperative Research Program (TCRP) Report 107:
Analyzing the Effectiveness of Commuter Benefits Programs (2005)
http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_107.pdf

Transit Center, *2010 Commuter Benefit Impact Survey*. <http://www.transitcenter.org/images/CBIS.pdf>

ICF International, *Commuter Benefits Sketch Analysis*, June 25, 2013.
www.baaqmd.gov/commuterbenefits

Appendix A

Comments and Staff Responses

Appendix A: Comments and Staff Responses

On January 21, 2014, the Air District and the Metropolitan Transportation Commission (MTC) issued a Notice of Public Hearing to consider adoption of proposed Regulation 14: Mobile Source Emissions Reductions Measures, Rule 1: The Bay Area Commuter Benefits Program (proposed Program).

Interested parties were provided 30 days to review and submit comments on the proposed Program and the supporting documents. No comments were received on the CEQA document. The comments on the Proposed Program received by the comment deadline (February 21, 2014) are summarized below, along with staff responses.

ID#	Name & Organization	Summary	Staff Responses
1	Caitlin Chew	Expresses support for proposed Program.	Comment noted.
2	Ellen Barton, San Mateo C/CAG	Suggests that the Air District expand focus of the proposed Program beyond commuter trips and employer-provided benefits.	Air District staff recognizes that commuter trips are only a part of all Bay Area vehicle trips. The proposed Program is one component of a comprehensive strategy to reduce vehicle miles traveled throughout the region. The transportation control measures (TCMs) adopted in the <i>Bay Area 2010 Clean Air Plan</i> , which were developed by both MTC and the Air District, lay out a roadmap to reduce vehicle miles traveled and vehicular emissions across the Bay Area for all types of vehicle trips. The proposed Program will help to implement one of the 17 TCMs in the 2010 Clean Air Plan. The proposed Program also complements other regional efforts to reduce motor vehicle travel, such as <i>Plan Bay Area</i> , adopted in July 2013 by MTC and the Association of Bay Area Governments (ABAG).
3	Neil Kingston, University of the Pacific	The proposed Program would be an additional burden to employers.	In developing the proposed Program, the Air District and MTC have endeavored to minimize administrative and reporting requirements. Assistance to help employers understand and comply with the Program will be provided by means of web-based resources and by staff of the 511 Regional Rideshare Program. For many employers, the tax savings will offset compliance costs. The socio-economic analysis on the proposed Program found that the Bay Area would experience an additional \$84 million in induced economic activity, resulting in 610 additional jobs, as a

			<p>result of implementation of the proposed Program. This analysis also found that impacts on small businesses would not be significant, even under “worst-case scenario” assumptions.</p>
4	Paul Steinberg, Team Carma	<p>The proposed Program should do more to promote alternative modes such as carpooling and bicycling, rather than just including them under Option 4. These modes are two of the most important ways to reduce drive-alone commute trips. The Air District and MTC spend considerable funds to promote the use of these commute modes, so it makes sense to highlight these modes in the Commuter Benefit Program.</p>	<p>The Air District and MTC strongly support bicycling and carpooling as alternative commute modes. In fact, promoting carpooling and bicycling may be the most effective way to reduce vehicle trips to worksites that are not well served by transit. As noted in the response to Comment #2, the Air District and MTC implement a wide range of transportation control measures to promote carpooling, bicycling, and other alternative commute modes.</p> <p>The proposed Program was developed pursuant to Senate Bill 1339, which defines three basic commuter benefit options, as well as an alternative commuter benefit option (Option 4). The three basic options defined in SB 1339 focus on transit and vanpools, because these modes receive the most favorable treatment in terms of the commuter tax benefits in the federal tax code (IRS Code section 132-f).</p> <p>Option 4 provides a viable and flexible way for employers to comply with the Program. Employers that want to promote bicycle commuting can offer a bicycle subsidy (in addition to the transit and vanpool subsidy) as part of Option 2, or they can include bicycling as an element of an alternative commuter benefit pursuant to Option 4. Employers that want to promote carpooling can craft an alternative commuter benefit via Option 4 with a focus on measures to promote carpooling.</p>
5	Bruce Reiser, Schnitzer Steel Industries	<ul style="list-style-type: none"> • The proposed Program should apply to employers with 100+ employees (rather than 50). • The proposed Program should provide exemptions for the 	<ul style="list-style-type: none"> • The applicability threshold in the proposed rule of 50 or more full-time employees is defined in Senate Bill 1339. This threshold is consistent with the authorizing legislation. • Regarding these proposed exemptions, staff acknowledges that many worksites are not

		<p>following:</p> <p>(1) Employers with multiple shifts/employees that work unplanned or irregular hours; and</p> <p>(2) Worksites located more than ¼ mile from a transit stop.</p>	<p>well served by transit, nor are all employee work schedules conducive to using transit or vanpools. However, the basic premise of the proposed Program is that all employers can provide some combination of information, services, or incentives to promote alternative commute modes. The Program gives employers the flexibility to select a commuter benefit program appropriate to its worksite and workforce. Option 4, the alternative commuter benefit option, may be the most appropriate for employers whose worksites are located in non-transit rich areas, or for those with irregular work schedules. Although the effectiveness of commuter benefit programs may vary among worksites, the Program asks that all employers make a good faith effort to reduce drive-alone trips to their worksites.</p>
6	Keith Carson, President, Alameda County Board of Supervisors	<p>Alameda County actively encourages the use of alternative commute modes via its Clean Commute Program, which allows employees to use pre-tax \$\$ for transit. The County also provides shuttles and operates a carpool matching service. The County's program saves money for both the County and its employees, while providing environmental benefits. The County Board of Supervisors supports the proposed Bay Area Commuter Benefits Program.</p>	<p>Comment noted. The Alameda County Clean Commute Program may provide a good model for public and private employers elsewhere in the region.</p>
7	Sara Greenwald	<ul style="list-style-type: none"> • Expresses support for the proposed Program. • Ideally, employers would work with public transit agencies to provide frequent, reliable home-to-work service for employees. I appreciate that BAAQMD works with many transit agencies to provide shuttles between transit stations and workplaces. How does 	<ul style="list-style-type: none"> • Comment noted. • Employer assistance for the Program will be provided via the 511 Regional Rideshare Program (RRP). The RRP staff is knowledgeable about the various transit providers, and can provide information to employers about the transit options for their employees. Also, as noted in response to Comment #2, the Air District and MTC work together to implement a wide range of transportation control

		<p>BAAQMD plan to expand its work to help employers deal with the welter of transit agencies their employees may use?</p> <ul style="list-style-type: none"> • Some employers may offer company shuttles through private contractors. Private shuttles can crowd municipal transit lanes and stops. In San Francisco, Muni has started a program to charge these shuttles a small fee. How does BAAQMD currently (or plan to) help the many employers and transit agencies work out fee systems? 	<p>measures, including programs to promote transit use. These efforts are on-going.</p> <ul style="list-style-type: none"> • At this time, staff believes that potential fees for use of local bus lanes or bus stops can be most appropriately addressed by means of dialogue between the local transit agency and the companies that operate the shuttle or bus service.
8	David Schonbrunn, TRANSDEF	<p>Option 3 should specify minimum standards for coverage by an employer-provided transit service. The proposed Program needs to either specify a quantitative coverage standard or include a backstop requirement, accomplished through adopting one of the other Options.</p>	<p>For purposes of Option 3, staff believes that employers are in the best position to determine the appropriate level of bus or shuttle service to provide to their employees. Employers are most familiar with their employees' commute patterns, home locations, work schedules, etc. There are various types of transportation that can be provided pursuant to Option 3, including long-distance bus service, "last-mile" shuttle service, or vanpools. Given the wide range of transportation options and the diversity of employers, staff believes it is not necessary at this time to define standards that would be applicable across the board. Staff will monitor compliance with the Program via Option 3 over the duration of the pilot period (through the end of 2016). If the Program is reauthorized on a long-term basis, staff may consider whether minimum standards should be defined for Option 3 based on experience during this initial pilot phase.</p>
9	Peter Engel, CCTA	<ul style="list-style-type: none"> • The proposed rule defines vanpool and transit, but not carpool. Is the intent that a carpool could be any two people in a car like for access to an HOV lane? 	<ul style="list-style-type: none"> • The proposed rule defines the terms "transit" and "vanpool" because these terms are defined in a specific way in IRS Section 132(f). However, since there are no federal tax benefits for carpooling, staff sees no need at this time to define "carpool" in the proposed rule. If an employer wants to promote carpooling as an element of its

		<ul style="list-style-type: none"> • A definition of “work site” could be helpful. Is a home office a work site? • What is the compliance and enforcement process, and what will the fines for non-compliance be? 	<p>commuter benefits program and sees the need to define “carpool”, the employer may define the term as it deems appropriate.</p> <ul style="list-style-type: none"> • At this time, staff sees no need to define the term “worksite”. The proposed Program applies to employers based on the number of full-time employees within the Air District’s jurisdiction, regardless of where employees work. Any employee who meets the definition of “full-time employee” as defined in the rule should be counted for purposes of determining whether the employer is subject to the Program, regardless of the employee’s worksite location or type. • The Air District and MTC will encourage compliance by providing outreach, information and assistance to employers via the 511.org regional rideshare program. The Air District would pursue enforcement actions only as a last resort, in the event that an employer refuses to comply with the Program. If necessary, the enforcement process would be as follows: If an employer fails to respond to Air District/MTC notices, a Notice to Comply would be issued, specifying a deadline to respond. If the employer again fails to take action, the Air District may then issue a Notice of Violation. In the event that it becomes necessary to levy a penalty, the proposed penalty would depend upon the various factors that the Air District is required to consider pursuant to Health & Safety Code section 42402.
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#1

From: Caitlin Chew [caitlin.chew@gmail.com]

Sent: Friday, January 24, 2014 9:30 AM

To: Commuter Benefits

Subject: comment in support of Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program, and a California Environmental Quality Act (CEQA) Negative Declaration

Dear Mr. David Burch,

I am writing to you to express my support for adoption of Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program, and a California Environmental Quality Act (CEQA) Negative Declaration, as a resident of the Bay Area.

Regards,
Caitlin Chew

#2

From: Ellen Barton [ebarton@smcgov.org]
Sent: Wednesday, February 05, 2014 1:24 PM
To: Commuter Benefits
Subject: Comment on regulation 14

If regulations and funding restrictions allow, I suggest that the Air District expand its focus beyond commuter trips and employer-provided benefits. Commute trips represent only 20% of all trips and other types of trips offer more flexibility (time constraints, for example) that make transportation mode behavior change more likely.

Ellen Barton
Active Transportation Coordinator
San Mateo C/CAG
(650) 599-1420

 Save Paper. Think Before You Print.

#3

From: Neil Kingston [nkingston@PACIFIC.EDU]
Sent: Thursday, January 23, 2014 6:41 PM
To: Commuter Benefits
Subject: Comment

I believe the BAAQMD is already an overreaching institution that is playing a game of hide the responsibility.

The employers and employees of the Bay Area are constantly bombarded with more costs to their businesses and personal lives. The quality of our air is not the issue here. It is a blatant attempt of BAAQMD with these proposed rules, to further its ability to control Bay Area life. Our air quality is heavily influenced by global pressures. As a whole the people of California lead the nation in proactive steps toward a sustainable world. All this proposal will do is get the HR department of BAAQMD busy hiring yet more enforcement officers. I say no.

Not that it matters. You never read comments anyway.

Neil Kingston
Director of Building Operations
University of the Pacific
Dugoni School of Dentistry
San Francisco
415-929-6471
Sent from my iPad

#4



5669 Snell Ave #250
San Jose, CA 95123

t. (408).465.4844
e. info@car.ma
w. www.car.ma

20 February 2014

David Burch via commuterbenefits@baaqmd.gov
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street, San Francisco, California, 94109,

Re: Comments on PROPOSED REGULATION 14, RULE 1: BAY AREA COMMUTER BENEFITS PROGRAM

We were disappointed to learn of the omission of carpooling and bicycling from these recommendations, considering they are two strongest tools for combatting transportation emissions due to Single Occupancy Vehicles.

By placing these options under Option 4, they do not receive the same level of attention as they should in light of the value they offer toward achieving emission goals. This decision also seems to ignore the millions of dollars spent annually by BAAQMD and MTC on these initiatives, much of the \$2.2bn the Feds spend on Commuter Tax Benefit (IRS Section 132f).

- The Federal Commuter Tax Benefit recognizes the importance of subsidies for commuters that carpool by providing up to \$250 toward qualified parking
- The Annual BAAQMD budget allocates \$1m+ annually to the Spare the Air program, which promotes both carpooling and bicycling
- Annual Great Race for Clean Air is designed to reduce SOVs through carpooling
- The Metropolitan Transportation Commission 511.org funds ridesharing (AKA carpooling, vanpooling, casual carpooling, real-time carpooling) and bicycling programs including >\$12m STP/CMAQ grants over the past two years

It seems counter-productive to spend millions of dollars annually promoting modal options that are not specifically called out as acceptable options for compliance with Senate Bill 1339.

Tracking option to verify compliance are readily available including:

- MTC www.ridematch.511.org database tracks matches and commute logs,
- MTC funds Bay Area BikeShare with GPS verification of trips,
- MTC funds Carma Real-time Ridesharing with GPS verification of trips,
- Drivers of casual carpools use the Bay Bridge using GPS tracked FasTrak tags,
- Receipts for qualified bike expenses are easy to scan.

We ask the committee to reconsider adding options specifically for carpooling and bicycling.

Thank you for your consideration,



Paul A. Steinberg
Team Carma

Carma Background

Carma provides a free consumer smartphone app that allow commuters to match up in real-time, or in advance, to carpool or ride-share. The cost to a Rider is always \$0.20 per mile, Avego retains \$0.03 per mile to operate the service, and the balance of \$0.17 per mile is deposited in to the Driver's electronic wallet. This model is based on an organic concept referred to as "casual carpooling" in Houston TX and San Francisco CA, or "slugging" in Washington DC.

Avego operates Federal funded "Real-Time Ridesharing" projects in partnership with Federal, State (Caltrans, Texas DOT, Virginia DOT) and local Transportation Authorities. Relevant projects include;

- San Francisco CA is currently world's largest public-private partnership designed to reduce emissions and SOV travel. Project is funded with a CMAQ grant and administered by Caltrans and the Metropolitan Transportation Commission, and stakeholders including Sonoma/Marin/Contra Costa county transportation authorities. This project receives lots of regional and national TV and radio coverage including; BloombergTV, KTVU, and CBS
- Austin TX uses automated occupancy verification to provide discounted tolls for HOV users along toll roads 183A and 290. Project is funded with a Value Pricing Grant and administered by TxDOT and Central Texas Regional Mobility Authority with independent oversight by Texas A&M Transportation Institute.
- Santa Barbara CA traffic mitigation project along Highway 101 during lane expansion from Ventura to Santa Barbara CA, reduces parking overflows at the local colleges. Project is funded with a Federal Value Pricing grant and administered by Caltrans and the Santa Barbara Council of Governments.
- Washington DC project is available exclusively to Department of Defense employees as part of Base Realignment and Closure (BRAC) along the heavily congested I-95/395/495 corridors. Project is funded through a Federal Value Pricing grant and administered by VDOT and the Northern Virginia Regional Commission (NVRC).

Avego is a Delaware Corporation headquartered in San Jose, CA, and and a wholly owned subsidiary of Avego Ltd, located at Penrose Wharf, Alfred Street, Cork, Ireland. The primary investor, founder and Managing Director is an American citizen (inventor, venture capitalist and philanthropist) named Sean O'Sullivan.

#5



February 21, 2014

Mr. David Burch
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Re: Regulation 14, Rule 1: Bay Area Commuter Benefits Program

Dear Mr. Burch,

Schnitzer Steel Industries, Inc. appreciates this opportunity to comment on the proposed Regulation 14, Rule 1 regarding the Bay Area Commuter Benefits Pilot Program.

We are a global leader in the metals recycling industry and one of the first recycling companies in Oakland. For over 50 years, we have been recycling end of life materials that are made into new reusable products all over the world. Schnitzer's North America operations process millions of tons of metal, resulting in the savings in millions of tons of CO2 equivalents compared to the mining, smelting, and manufacturing of raw metal ore and metal products.

Schnitzer was built on the principles of sustainability and environmental stewardship which can be seen at any of our local facilities in the Bay Area. As such, we are not opposed to encouraging the use of carpooling, vanpooling, and mass transit, however we have comments and suggested alternative language regarding your proposed Regulation 14, Rule 1.

- 1) Our Oakland facility has two shifts per day that do not align with regular commute hours. Additionally, our employees often must work unplanned overtime which could potentially leave them stranded at our plant with no carpool or viable transit services to get them home.
 - a. **We suggest adding a section that allows exemptions for facilities with multiple shifts and employees that often have to work unplanned overtime and irregular hours. We suggest the following language:** *"Exemptions for Irregular Work Hours and Multiple Shifts: This rule shall not apply to facilities that have multiple shifts which may be outside of regular transit hours or employees that may have to work unplanned overtime which would require their shift to end outside of regular transit hours"*

- 2) For section 14-1-402 Applicability, we suggest the following alternate language:
"Applicability: This rule applies to all public, private, and non-profit employer facilities for which an average of 100 or more full time employees per week perform work for monetary compensation within the geographic boundaries of the Bay Area Air Quality Management District (District) as determined pursuant to Section 14-1-402."

We feel this language would remove the financial and administrative burden of managing such a program for a smaller company whose costs would not be insignificant.

- 3) Our facility in Oakland is not conveniently located near a public transit stops/stations. For example, the facility is located 1.1 miles from the West Oakland Bart Station. If an employee were to walk from the station, 0.29 miles of this trip would be on Embarcadero West where there are no sidewalks (due to cargo rail lines) posing a significant safety hazard to our employee. We are 0.4 miles from the nearest AC Transit Station and the employee would have the same 0.29 mile walk with no sidewalks along a street with heavy truck traffic. The Jack London Amtrak Station is located approximately 1 mile from our facility in Oakland and would require the employee to walk that one mile with the same 0.29 mile section with no sidewalk.

- a. **We suggest adding a section that allows exemptions for employers with facilities that are greater than ¼ mile from a transit stop. We suggest the following or similar language in the rule:** "Exemptions for employers not near transit stops/stations: This rule shall not apply to facilities that are located more than ¼ mile from the nearest transit stop and/or station."

As you can see, the current rule language imposes significant challenges to the employee commuter from a safety and convenience factor. We strongly believe the language we put forward addresses many concerns raised in the rule.

Schnitzer Steel greatly appreciates this opportunity to comment on this rule to you. Should you have any questions, please feel free to contact me at 510-444-3919.

Thank you for your consideration,



Mr. Bruce Rieser
Southwest Regional Director
Schnitzer Steel Industries, Inc.

#6



BOARD OF SUPERVISORS

KEITH CARSON
PRESIDENT
SUPERVISOR, FIFTH DISTRICT
February 19, 2014

David Burch
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Dear Mr. Burch:

SUBJECT: SUPPORT FOR PROPOSED RULE (REGULATION 14, RULE 1: BAY AREA COMMUTER BENEFITS PROGRAM)

I am writing on behalf of the Alameda County Board of Supervisors in support of the Bay Area Air Quality Management District's proposed Rule 1: Commuter Benefits Program. Environmental stewardship is a core tenet of Alameda County, and to address the County's contribution to climate change, the Board of Supervisors passed the Alameda County Climate Action Plan for Government Operations and Services, in 2010. The Plan sets greenhouse gas (GHG) reductions targets of 15%-20% within the next six years and an 80%+ reduction by the year 2050. The Plan also outlines areas of focus to reduce operational emissions, including employee commuting.

Alameda County has been actively participating in reducing green-house gas emission throughout the County, and in doing so the County has developed programs and policies to reduce the environmental impact of employee commuting, which currently represents over one-third of our total emissions. County employees have the option to enroll in a pre-tax commuter benefits program--helping both employees and the County to save money, while encouraging the utilization of public transit. In addition, Alameda County's General Services Agency Parking Division operates shuttles that transport employees to BART stations to make transit more accessible. Furthermore, the County's Clean Commute Program developed a carpool matching service and regularly engages our employees on the benefits of clean commuting in the Bay Area.

Alameda County's efforts to provide commuter benefits and incentives to employees can be instrumental in encouraging commuters to switch to cleaner commuting modes. Many of these benefits can be offered at no or low cost to the employer and the benefits of clean air and reduced emissions are invaluable. Therefore, the Alameda County Board of Supervisors supports the Bay Area Air Quality Management District's proposed Rule 1: Commuter Benefits Program.

Sincerely,

Keith Carson
President, Alameda County Board of Supervisors

#7

From: Sara Greenwald [anderson.greenwald@att.net]
Sent: Sunday, January 26, 2014 5:49 PM
To: Julian Elliot; Commuter Benefits
Subject: questions re Rule 1, Reg 14, commuter benefit program

David Burch
Principal Environmental Planner
Bay Area Air Quality Management District

I support proposed Rule 1, Regulation 14 to require employers with 50 or more full-time employees in the Bay Area to offer commuter benefit options to offer to their employees. This is a strong step toward improving our air quality by getting more commuters out of their cars and onto shared transit.

Two questions:

1. Ideally, employers would work with public transit agencies to provide frequent, reliable home-to-work service for employees. I appreciate that BAAMQD works with many transit agencies to provide shuttles between transit stations and workplaces. How does BAAMQD plan to expand its work to help employers deal with the welter of transit agencies their employees may use?
2. Some employers may offer company shuttles through private contractors. Private shuttles can crowd municipal transit lanes and stops. In San Francisco, Muni has started a program to charge these shuttles a small fee. How does BAAMQD currently (or plan to) help the many employers and transit agencies work out fee systems?

Thank you for your leadership on this issue,

Sara Greenwald
San Francisco

#8

-----Original Message-----

From: David Schonbrunn [<mailto:david@schonbrunn.org>]

Sent: Monday, February 24, 2014 10:47 AM

To: David Burch

Subject: Commute Benefits

David,

I'm pleased to see this program moving forward. I believe we first started advocating for its adoption back in the 1997 CAP. I have two brief comments:

Footnote 21 is missing "save" in the second sentence.

Option 3 is unacceptably vague as to the compliance threshold for coverage by an employer-provided transit service. While the other Options pertain to all employees, Option 3 is silent as to the percentage of employees that are to be offered service. It should be obvious that providing one shuttle covering only a small fraction of employees would not meet the program's intent. The rule therefore needs either a quantitative coverage standard or a backstop, accomplished through adopting one of the other Options.

Thanks,

--David

David Schonbrunn, President

Transportation Solutions Defense and Education Fund (TRANSDEF) P.O. Box 151439 San Rafael, CA 94915-1439

415-370-7250 cell & office

David@Schonbrunn.org

www.transdef.org

#9

From: Peter Engel [mailto:pengel@ccta.net]
Sent: Thursday, January 30, 2014 1:49 PM
To: David Burch
Subject: BAAQMD regulation 14, Rule 1 question

David-

I was reading the proposed ordinance to implement SB 1339 and had a few quick comments and questions.

1. The document defines vanpool; and transit but not carpool. Is the intent that a carpool could be any two people in a car like for access to an HOV lane?
2. A definition of a "work site" might be helpful. Is a home office a work site?
3. Can you provide a situation where a violation occurs and the fines described in HSC Section 42402 are applied? Lets assume a required employer does not register. Does that mean they will be fined \$1,000 per day? \$10,000 per day? What if they register but neglect to notify the employees? Same fines? I am assuming that some process for notifying employers of noncompliance will be developed. Will that be established in policy?

Thanks for taking time on this.



CONTRA COSTA
transportation
authority

Peter Engel, Program Manager
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Appendix B

Socioeconomic Analysis

bae urban economics

**Socio-Economic Impact Study of Proposed Regulation 14, Rule 1,
Bay Area Commuter Benefits Program**

Submitted to: Bay Area Air Quality Management District
March, 2014

bae urban economics

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EXECUTIVE SUMMARY

Description of Proposed Rule

Senate Bill 1339, signed into law in fall 2012, authorizes the Bay Area Air Quality Management District (Air District or BAAQMD) and the Metropolitan Transportation Commission (MTC) to adopt and implement a Bay Area Commuter Benefits Program (Program) on a pilot basis through the end of year 2016. A proposed new rule (Regulation 14, Rule 1) has been developed to serve as the foundation for the Program. The proposed rule (“the Rule”) will be presented for review and approval by the governing boards of both the Air District and MTC in early 2014.

If approved, the Program would require any employer with 50 or more full-time employees in the Bay Area to offer one of four commuter benefit options to its employees. The proposed rule defines a “full-time employee” as any employee who works an average of 30 or more hours per week. An employer that is subject to the Rule (by virtue of having 50 or more full-time employees in the Bay Area) would be required to offer its commuter benefit to all employees who work an average of 20 or more hours per week.

The four commuter benefit options that employers would choose among are as follows:

Option 1 - Pretax option: Consistent with Section 132(f) of Internal Revenue Code, allow employees to exclude their transit or vanpool costs from taxable wages.

Option 2 - Employer-paid benefit: The employer provides a subsidy to offset the cost of commuting via public transit or by vanpool.

Option 3 - Employer-provided transportation: Transportation furnished by the employer at no or low cost to the employee using a vanpool or bus, or similar multi-passenger vehicle operated by or for the employer.

Option 4 - Alternative commuter benefit: The Air District/MTC may approve an alternative commuter benefit proposed by the employer that would provide at least the same reduction in single-occupant vehicle trips (or vehicle emissions) as any of the three options above.

Many Bay Area employers already offer one or more of these commuter benefits to their employees; these employers that already provide commuter benefits are expected to incur minimal administrative costs to comply with Program reporting requirements. An employer

that does not currently offer any of the commuter benefits described above would need to select one of the benefits to offer to its employees. The employer would incur costs to do so.

One unusual factor in implementation of this rule, however, is that in the case of Option 1, employers may be able to save on payroll taxes; this could partially or completely offset compliance costs, or even result in a net benefit for employers implementing the Rule. Employees would also see potential tax savings as a result of the Program,¹ resulting in an increase in after-tax income, leading to more potential consumer spending in the region. In addition to direct savings in payroll taxes for employers and income taxes for employees, the Program is expected to result in a variety of positive outcomes, such as helping employers to recruit and retain employees, reducing traffic peak period congestion on Bay Area roadways, reducing air pollution and protecting public health, and reducing emissions of greenhouse gases. These outcomes may also provide indirect economic benefit to the region; however, this study does not attempt to quantify the economic value associated with these outcomes.

Socio-Economic Impacts

In order to estimate the economic impacts of enacting Rule 14-1 on the affected industries, MTC provided BAE with a database of all the affected work sites, as well as a database of all the firms represented in the dataset, some of which are headquartered outside the Bay Area. The two dataset were derived from Dun & Bradstreet data obtained by MTC for firms with 50 or more employees in the Bay Area. BAE then linked these two datasets so it was possible to provide data by site or by firm. Since the impacts are spread across all sectors of the economy, BAE completed its analysis on the basis of major sectors of the economy as indicated by two-digit NAICS code. This report compares the annualized compliance costs for each industry with its 10-year average profit ratio. The analysis uses data from the Air District, MTC, the Internal Revenue Service, and Dun & Bradstreet.

Economic Profile of Affected Industries

In total, there are approximately 33,000 work sites estimated to be impacted by the requirements of the Rule, with 2,453,198 employees in the Bay Area representing approximately three-fourths of all employees in the region.² Based on estimates derived from

¹ Employees would receive direct tax savings in response to Option 1. In addition, the IRS treats employer-provided subsidies for transit or vanpool fares (Option 2) and employer-provided transportation (Option 3) in a “commuter highway vehicle” as “qualified transportation fringe benefits,” meaning that these commuter benefits are tax-free to the employee.

² Note that this compares Dun & Bradstreet data for the affected industries with overall employment data from the CA Employment Development Department (EDD); there may be differences in enumeration such that this proportion should be considered a rough estimate.

the Dun & Bradstreet data, the affected work sites have estimated annual sales ranging up to approximately \$21 billion for the highest revenue-generating work site,³ and employment ranging from one to 10,000 employees. It should be noted that a number of work sites affected by the Rule are in the public sector, and do not show revenues in the Dun & Bradstreet database. Revenue information is also missing for a number of the private sector employers.

Economic Impacts on Affected Industries

In order to determine the impacts of the proposed Program on the firms covered by the Rule, the analysis here compares annualized compliance costs to annual profits. The analysis then calculates the compliance costs as a percentage of profits to determine the level of impact. The Air District uses the Air Resource Board's 10 percent threshold as a proxy for burden. Annualized compliance costs resulting in profit losses of 10 percent or more indicate that the proposed compliance measure has the potential for significant adverse economic impacts. Since there are far too many firms to reasonably assess impacts on a firm-by-firm basis, this analysis was done in three parts.

1. Overall Sectoral Impact on Profits

Overall sectoral compliance costs are compared to the profit margins by sector derived from IRS data, to see how particular sectors fare with respect to the 10 percent burden threshold. This analysis found that the share of annual profits by sector potentially affected by the Program is insignificant across all sectors. In every sector compliance costs were less than one-tenth of one percent of annual profit.

2. Impact on Smaller Firms by Sector

Compliance costs may be higher on a relative basis for small employers (as discussed in "Compliance Costs" section below). Therefore, we performed an analysis that was limited to firms with less than 75 employees to ascertain if there would be adverse impacts. While the proportion of annual profits is more than for the sectors overall, the highest reduction in annual profit is still estimated to be only 0.054 percent of profits, well below the 10 percent threshold.

3. Worst-Case Scenario by Sector

³ Revenue has been calculated based on revenue per employee firm-wide applied on a per employee basis to Bay Area work sites.

Since some costs are fixed regardless of firm size, the greatest impacts would be likely fall on the firms with the fewest employees, and likely the lowest revenues. As a “worst case” scenario, estimated compliance costs are estimated for a hypothetical firm of 50 Bay Area employees in each major sector, assuming no employee participation (and thus no payroll tax savings to the employer). These costs are compared with estimated average revenues for that sector as generated on a per-employee basis. Even under this scenario, the loss of profit is under one percent across all sectors, still far below the 10 percent ARB threshold.

Regional Employment, Indirect, and Induced Impacts

Regional direct, indirect, and induced impacts refer to regional multiplier effects of increasing or decreasing regional economic activity. To the extent that the proposed Rule creates either a net revenue loss or gain for impacted firms, this would result in changes in direct regional economic and employment. Firms would also either have more or less money to spend to on goods and services from local suppliers, thereby resulting in indirect impacts, or business-to-business expenditures, and changes in employment at suppliers through the chain of impacted firms. In addition, impacted businesses would either have more or less money to spend hiring regional residents, causing a change in induced impacts resulting from worker household spending.

Because our analysis finds that most major sectors would experience a net positive revenue flow resulting from the payroll tax savings associated with implementation of Option 1 to comply with the proposed Rule, the overall estimated direct and indirect impacts would be positive, totaling approximately \$21 million in 2015.⁴ The increased revenues would result in 142 new direct and indirect jobs, and an additional 69 induced jobs. Induced impacts from household expenditures of new workers hired in response to higher revenues at impacted firms would total approximately \$9 million additionally in 2015.⁵

While the levels of impacts shown here would be substantial if resulting from a single work site or firm, in the context of the entire economy the impacts are negligible. The total direct, indirect, and induced dollar impacts are less than 0.01 percent of revenues estimated for the impacted firms, and employment impacts are also less than 0.01 percent of estimated

⁴ The \$21 million figure is calculated based only upon the number of employees expected to change commute mode in response to the Rule. The actual savings to employers due to an increase in retained earnings should be higher, because employers who do not already have a pre-tax commuter benefits program (Option 1) in place will also see tax savings related to employees who already commute by transit or vanpool. .

⁵ Note that this analysis assumes all of the revenues and expenses would occur in the Bay Area. To the extent that costs and savings would accrue outside the area (e.g., compliance costs occurring at a headquarters location outside the Bay Area), the impacts/benefits here may be somewhat overstated.

employment for those same firms. The estimated dollar impacts are approximately 0.005 percent of the region's 2012 gross domestic product. Since it is assumed that program participation would be higher in 2035, if the program is extended beyond the pilot phase ending in 2016, then the net revenue changes would likely be more positive, with a modest increase in resulting impacts, over the long term.

In addition to the impacts resulting from employer implementation of the proposed Rule through a pre-tax commuter check program, existing employees using the program will see tax savings, effectively increasing their earnings. Some of these earnings will in turn result in new expenditures in the Bay Area, with additional impacts as the new dollars circulate through the Bay Area economy. The approximately \$71 million in additional earnings retained in the Bay Area in 2015 are estimated to result in an additional \$84 million in induced economic activity, resulting in 613 additional jobs.⁶ While these are small numbers relative to the overall Bay Area economy, these benefits are greater than those resulting from the overall increase in employer revenue resulting from implementation of the Rule.

Impacts on Small Businesses

According to California Government Code 14835, a small business is any business that meets the following requirements:

- Must be independently owned and operated;
- Cannot be dominant in its field of operation;
- Must have its principal office located in California;
- Must have its owners (or officers in the case of a corporation) domiciled in California; and
- Together with its affiliates, be either:
 - A business with 100 or fewer employees, and an average annual gross receipts of \$10 million or less over the previous three tax years, or
 - A manufacturer with 100 or fewer employees.

There are a number of firms covered by the Rule that meet these criteria. However, we defined a worst-case scenario: i.e., a scenario in which a hypothetical firm with 50 employees incurs initial costs to offer Option 1, but no employees choose to participate, such that the

⁶ The \$71 million in additional earnings retained is calculated based upon the number of employees expected to change commute mode in response to the Rule. The actual increase in retained earnings should be higher, because many employees who already commute by transit or vanpool will also pay less taxes when their employers make Option 1 available.

employer realizes no payroll tax savings to offset its compliance costs. Analysis of this worst case scenario indicates that across all sectors, for a typical firm of this size with average revenues, the costs would not impact profits at anywhere near the Air Resources Board benchmark threshold of 10 percent of profits. This indicates that the impacts on small businesses would not be significant.

DESCRIPTION OF PROPOSED RULE

Senate Bill 1339, signed into law in fall 2012, authorizes the Bay Area Air Quality Management District (Air District) and the Metropolitan Transportation Commission (MTC) to adopt and implement a Bay Area Commuter Benefits Program (Program) on a pilot basis through the end of year 2016. A proposed new rule (Regulation 14, Rule 1) has been developed by Air District staff to serve as the foundation for the Program. The proposed rule (herein referred to as “the Rule”) will be presented for review and approval by the governing boards of both the Air District and MTC in early 2014.

If approved, the Program would require any public, private, or non-profit employer with 50 or more full-time employees in the Bay Area to offer one of four commuter benefit options to its employees. The proposed rule defines a “full-time employee” as any employee who works an average of 30 or more hours per week. An employer that is subject to the Rule (by virtue of having 50 or more full-time employees in the Bay Area) would be required to offer its commuter benefit to all “covered employees,” i.e., all employees who work an average of 20 or more hours per week.

In brief, the Program would require employers to (1) designate an employee to serve as the Commuter Benefits Coordinator, (2) select one of the commuter benefit options described below to provide to covered employees, (3) register with the Air District/MTC (via an on-line registration system), (4) notify employees about the commuter benefit and how to apply for it, and (5) provide data needed for Program evaluation to the Air District/MTC.

The four commuter benefit options that employers would choose among are as follows:

Option 1 - Pretax option: Consistent with Section 132(f) of Internal Revenue Code, allow employees to exclude their transit or vanpool costs from taxable wages. (This exclusion is capped at \$245 per month for year 2013. However, unless Congress takes action to extend this amount for future years, the exclusion will be capped at \$130 per month in year 2014.)

Option 2 - Employer-paid benefit: The employer provides a subsidy to offset the cost of commuting via public transit or by vanpool. In 2013, the subsidy amount would be equal to the monthly cost of commuting via transit or vanpool, or \$75, whichever is lower. This amount would be adjusted annually consistent with California Consumer Price Index.

Option 3 - Employer-provided transportation: Transportation furnished by the employer at no cost, or low cost (as determined by the Air District or MTC), to the employee in a vanpool or bus, or similar multi-passenger vehicle operated by or for the employer.

Option 4 - Alternative commuter benefit: The Air District/MTC may approve an alternative commuter benefit proposed by the employer that would provide at least the same reduction in single-occupant vehicle trips (or vehicle emissions) as any of the three options above.

Many Bay Area employers already offer one or more of these commuter benefits to their employees. Employers that already provide commuter benefits are expected to incur minimal administrative costs to comply with Program reporting requirements. An employer that does not currently offer any of the commuter benefits described above would need to select one of the benefits to offer to its employees. The employer would incur costs to do so, as described in this report. However, depending upon the option chosen, employers may be able to save on payroll taxes, thus offsetting compliance costs in whole or in part.

In addition to direct savings in payroll taxes for employers and income taxes for employees, the Program is expected to result in a variety of positive outcomes, such as helping employers to recruit and retain employees, reducing traffic peak period congestion on Bay Area roadways, reducing air pollution and protecting public health, and reducing emissions of greenhouse gases.

REGIONAL TRENDS

This section provides background information on the demographic and economic trends for the nine-county San Francisco Bay Area, which represents the Air District’s jurisdiction.⁷ Regional trends are compared to statewide demographic and economic patterns since 2000, in order to show the region’s unique characteristics relative to the State.

Regional Demographic Trends

Table 1 shows the population and household trends for the nine county Bay Area and California between 2000 and 2013. During this time, the Bay Area’s population increased by 8.0 percent, compared to 12.1 percent for California statewide. Likewise, the number of Bay Area households grew by 6.6 percent, compared to a 10.2 percent statewide increase.

Table 1: Population and Household Trends, 2000-2013

Bay Area (a)	2000	2013	Total Change 2000-2013	% Change 2000-2013
Population	6,784,348	7,327,626	543,278	8.0%
Households	2,466,020	2,628,762	162,742	6.6%
Average Household Size	2.69	2.73		
California				
Population	33,873,086	37,966,471	4,093,385	12.1%
Households	11,502,871	12,675,876	1,173,005	10.2%
Average Household Size	2.87	2.93		

Notes:

(a) Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Sources: California State Department of Finance, 2013; US Census, 2000; BAE 2013.

The slower growth in the Bay Area is tied to its relatively built-out environment, compared to the state overall. While Central Valley locations, such as the Sacramento region, experienced large increases in the number of housing units, the Bay Area only experienced moderate increases in housing units.

⁷ The Air District’s jurisdiction consists of nine counties, including all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties, as well as the western portion of Solano County and the southern portion of Sonoma County. See <http://www.arb.ca.gov/app/dislookup/dislookup.php>

Regional Economic Trends

Table 2 shows jobs by sector in 2007 and 2012 for the Bay Area and California. In the five-year period between 2007 and 2012, the Bay Area's employment base shrank by 2.9 percent, decreasing from 3.35 million jobs to 3.26 million jobs (see Table 2). This represented a somewhat smaller percentage job loss than the State, where the number of jobs shrank by 4.9 percent.

The largest non-government sectors in the Bay Area economy are Professional, Scientific, & Technical Services; Health Care and Social Assistance; Retail Trade; and Manufacturing. The first two sectors each constituted 10 percent or more of the region's total jobs in 2012, with the latter two falling just below that threshold. Overall, the Bay Area's economic base largely reflects the state's base, sharing a similar distribution of employment across sectors. One noteworthy variation is the high employment in the Professional, Scientific, & Technical Services, which makes up 11.0 percent of employment in the Bay Area compared to only 7.5 percent statewide.

Between 2007 and 2012, the Bay Area's Manufacturing sector lost 9.9 percent of its jobs and Retail Trade lost 6.6 percent of its jobs, but the Professional, Scientific, & Technical Services sector grew by 10.9 percent, and the Healthcare & Social Assistance sector grew by 9.5 percent. Statewide, Manufacturing declined by 14.4 percent and Retail Trade declined by 7.6 percent, while the Professional, Scientific, & Technical Services and Healthcare & Social Assistance sectors grew by 4.1 and 11.1 percent, respectively.

The industries affected by the proposed Program span the entire economy, covering all places of work (work sites) with 50 or more full-time employees, as well as smaller places of work where the employer has more than 50 full-time employees across the Bay Area in multiple locations.⁸

⁸ For the purposes of this analysis, it is important to make the distinction between work sites, which are single locations, and firms, which consist of one or more work site (i.e., places of work). The rule applies to firms, so while all work sites of 50 or more jobs would be covered by the rule, work sites of less than 50 are also covered, if the firm/ownership entity has over 50 employees throughout the Bay Area. The term "work site" is equivalent to the term "establishment" as used by the U.S. Census Bureau and other sources for economic and employment data.

Table 2: Jobs by Sector, 2007-2012 (a)

Industry Sector	Bay Area					California				
	2007 (b)		2012 (c)		% Change 2007-2012	2007 (b)		2012 (c)		% Change 2007-2012
	Jobs	% Total	Jobs	% Total		Jobs	% Total	Jobs	% Total	
Agriculture	23,200	0.7%	20,500	0.6%	-11.6%	383,700	2.5%	402,500	2.7%	4.9%
Mining and Logging	2,300	0.1%	2,000	0.1%	-13.0%	26,700	0.2%	30,100	0.2%	12.7%
Construction	189,400	5.6%	138,500	4.3%	-26.9%	892,600	5.7%	587,500	4.0%	-34.2%
Manufacturing	348,900	10.4%	314,500	9.7%	-9.9%	1,464,400	9.4%	1,252,800	8.5%	-14.4%
Wholesale Trade	129,200	3.9%	116,800	3.6%	-9.6%	715,300	4.6%	676,800	4.6%	-5.4%
Retail Trade	343,200	10.2%	320,600	9.8%	-6.6%	1,689,900	10.9%	1,561,800	10.6%	-7.6%
Transportation, Warehousing, and Utilities	102,400	3.1%	93,500	2.9%	-8.7%	507,700	3.3%	486,500	3.3%	-4.2%
Information	113,400	3.4%	122,400	3.8%	7.9%	470,800	3.0%	430,400	2.9%	-8.6%
Finance and Insurance	140,300	4.2%	119,800	3.7%	-14.6%	613,100	3.9%	523,700	3.5%	-14.6%
Real Estate and Rental and Leasing	53,400	1.6%	49,100	1.5%	-8.1%	283,500	1.8%	250,900	1.7%	-11.5%
Professional, Scientific, and Technical Services	323,200	9.6%	358,400	11.0%	10.9%	1,060,400	6.8%	1,104,300	7.5%	4.1%
Management of Companies and Enterprises	58,100	1.7%	61,300	1.9%	5.5%	207,200	1.3%	201,700	1.4%	-2.7%
Administrative and Waste Services	192,700	5.7%	180,600	5.5%	-6.3%	997,900	6.4%	929,000	6.3%	-6.9%
Educational Services	76,200	2.3%	88,100	2.7%	15.6%	289,300	1.9%	336,100	2.3%	16.2%
Health Care and Social Assistance	303,100	9.0%	332,000	10.2%	9.5%	1,388,700	8.9%	1,543,100	10.4%	11.1%
Arts, Entertainment, and Recreation	34,200	1.0%	36,500	1.1%	6.7%	252,100	1.6%	259,400	1.8%	2.9%
Accommodation and Food Services	280,600	8.4%	297,700	9.1%	6.1%	1,308,300	8.4%	1,339,700	9.1%	2.4%
Other Services, except Public Administration	112,100	3.3%	113,400	3.5%	1.2%	512,200	3.3%	505,700	3.4%	-1.3%
Government (d)	486,000	14.5%	450,600	13.8%	-7.3%	2,494,600	16.0%	2,375,100	16.1%	-4.8%
Subtotal (e)	3,311,600	98.7%	3,215,800	98.8%	-2.9%	15,558,200	100.0%	14,797,100	100.0%	-4.9%
Additional Suppressed Employment (f)	42,600	1.3%	40,300	1.2%	-5.4%	n/a	n/a	n/a	n/a	
Total, All Employment (e)	3,354,200	100.0%	3,256,100	100.0%	-2.9%	15,558,200	100.0%	14,797,100	100.0%	-4.9%

Notes:

(a) Includes all wage and salary employment.

(b) Represents annual average employment for calendar year 2007.

(c) Represents annual average employment for calendar year 2012.

(d) Government employment includes workers in all local, state and Federal workers, not just those in public administration. For example, all public school staff are in the Government category.

(e) Totals may not sum from parts due to independent rounding.

(f) County employment for some industries in some counties was suppressed by EDD due to the small number of firms reporting in the industry for a given county. Additionally, Santa Clara data for MSA, which includes San Benito County, since county-level data was not available for 2012. Based on available 2011 data, San Benito has approximately 30,000 wage and salary jobs, an insignificant number relative to the Bay Area total.

Sources: California Employment Development Department, 2013; BAE, 2013.

Affected Industries

The impacts of Regulation 14, Rule 1, are not restricted to any particular industry, and thus will be spread across the entire economy and not limited to any particular sector. For the purposes of analysis, MTC has obtained Dun & Bradstreet data on work sites in the Air District that would be subject to the rule. A profile of the affected work sites is shown below. It should be noted that while there are work sites with less than 50 employees affected by the Rule, they are all part of larger business entities. Since employers with fewer than 50 total employees in the Bay Area would not be impacted by this new rule, this limits the potential impacts on small employers to those with 50 to 100 employees (pursuant to Government Code section 14835).

Based on Dun and Bradstreet data and MTC's analysis of that data, there were a total of 33,253 work sites that met the SB 1339 site selection criteria, broken out as shown in Table 3. Even though the Rule only applies to employers with 50 or more employees in the Bay Area, well over half the work sites covered by the Rule are branch sites with fewer than 50 employees.

Table 3: Number of Work Sites Meeting SB 1339 Selection Criteria

Single sites with 50 or more employees	4,282
Branch sites with 50 or more employees	7,884
Headquarters with 50 or more employees	1,826
Branch Sites with fewer than 50 employees	<u>19,261</u>
Total	33,253

Source: MTC, based on an analysis of Dun & Bradstreet data.

More detail on the employment size distribution for the impacted work sites is shown in Table 4.

Table 4: Profile of Affected Industries for Regulation 14, Rule 1

<u>Industry</u>	<u>All Industries</u>
Employment	2,453,198
Average Employment per Work Site	74
<u>Number of Work Sites (by Employees at Site)</u>	
1-4	2,852
5-9	4,341
10-19	5,725
20-49	6,343
50-99	8,272
100+	5,720
Total	33,253

Sources: Dun & Bradstreet, 2013; BAE, 2013.

SOCIO-ECONOMIC IMPACTS

This section (1) describes the methodology to assess impacts, (2) provides an economic profile of the affected industries, (3) describes the annualized compliance costs that employers would incur to comply with the Commuter Benefits Rule, (4) determines whether the annualized compliance costs would significantly burden the affected industries, and (5) estimates the regional economic impacts that would occur if the Rule is adopted.

Methodology

In order to estimate the economic impacts of adopting the Rule on the relevant industries, this report compares annualized compliance costs for the affected industries with their profit ratios. Since the Rule affects all industries, the analysis will show impacts by major industry sector. The analysis uses data from Dun & Bradstreet, the Internal Revenue Service (IRS), MTC, and BAAQMD.

Economic Profile

The data for the economic profile is generated based on the Dun & Bradstreet data obtained by MTC for firms with 50 or more employees in the Bay Area. This site-based data source includes location, estimated revenues, NAICS code, number of employees at the work site, and information on whether the site is a branch location, a single location, or a headquarters location for a firm with multiple locations. Each work site record has a DUNS number unique to that location, as well as a number linking it to the headquarters location of the firm if it is a branch location. This linking number makes it possible to enumerate all the locations in the Bay Area associated with a particular firm. MTC provided BAE with a database of all the affected work sites, as well as a database of all the firms represented in the dataset, some of which are headquartered outside the Bay Area. BAE then linked these two datasets so it was possible to provide data by site or by firm.

Estimated Rate of Return

In its report on returns of active corporations, the Internal Revenue Service (IRS) provides annual data on total sales and net income for public companies across the broad spectrum of the private-sector. For this analysis, 10-year averages were used so that the impacts of any particular year's performance due to economic fluctuations are lessened.

Compliance Costs

Estimates of compliance costs prepared by BAAQMD staff were used for the analysis here. These estimates are described in more detail in the discussion below. These costs are basically applied on in a three-way matrix of one-time vs. ongoing status, work site-based and firm-based, and per employee or per firm. For instance, startup costs are a one-time cost, and are applied on a firm basis. Some of these startup costs are on a per-employee basis, while others are on a per-firm basis.

Because of the variation in current program participation, some ongoing costs of providing the program to employees have to be calculated at the work site level. While data on actual use of commuter benefits programs in the Bay Area is unavailable, this analysis assumes that a higher

percentage of employers in San Francisco offer commuter benefits due to the City's existing commuter benefits ordinance, with a lower rate of current employer participation elsewhere in the region. Additionally, there is substantial variation in transit accessibility across the area; MTC has estimated current rates of transit utilization by "superdistrict"⁹ as well as expectations regarding increased use by 2015 and 2035. This also factors into employee-based program costs at the work site level.

Program Benefits

There are significant tax savings to firms providing Option 1, the pre-tax commuter check program, since the dollars provided are not taxed. Per IRS section 132(f), the employer saves money because it does not pay FICA taxes (usually 7.65% per employee) or Medicare taxes on the pre-tax dollars that employees set aside to pay their transit and vanpool fares.

On the employee side, pre-tax dollars used to pay for transit or vanpooling are not subject to FICA, Medicare, federal or state income taxes. The percentage of tax savings varies based on an employee's actual tax rate. The analysis here assumes a "typical" marginal tax rate of 25 percent for Federal taxes and six percent for State taxes. An adjustment is also made to account for workers above the cap of \$113,700 for Social Security payroll deductions.

While the monthly set-aside amount in 2013 is capped at \$245, this amount will decrease in 2014 to \$130 absent intervention by Congress. The analysis here conservatively assumes a maximum monthly benefit of \$125.¹⁰ Average transit costs per superdistrict have also been estimated by MTC. These average rates are applied in the analysis, with a cap of \$125 per month.

Since the proportion of transit users and transit cost varies by superdistrict, these potential tax savings were applied at each work site, based on the estimated number of workers and likely transit usage rates. For the calculation of profit impacts, the employer tax savings were taken into account in computing total compliance costs; i.e., the compliance costs were computed net of these employer savings. The employee savings, while not relevant to an assessment of compliance costs and the impact on firm profits, are considered in assessing regional impacts.

Economic Profile of Affected Industries

In total, there are approximately 33,000 work sites estimated to be impacted by the requirements of the Rule, with 2,453,198 employees in the Bay Area representing approximately three-fourths of all

⁹ MTC "superdistricts" are used for planning on an intermediate geographic scale. Superdistricts are larger than census tracts, but smaller than counties. MTC has divided the Bay Area into 34 superdistricts.

¹⁰ At the time of BAE's analysis, the rate for 2014 had not yet been set, but the baseline rate of \$125 before an inflation adjustment was known. Thus BAE used the \$125 rate in its analysis. The higher rate of \$130 per month would result in slightly lower overall impacts, since it has no impact on employer compliance costs, but would only lead to greater employer and employee tax savings. Therefore, the use of \$125 is conservative with respect to impacts. Furthermore, this rate is still a "moving target," since it is possible that Congress could act to carry over the much higher 2013 rate, so BAE has not updated to the \$130 monthly cap in its analysis.

employees in the region.¹¹ Based on estimates derived from the Dun & Bradstreet data the affected work sites have estimated annual sales ranging up to approximately \$21 billion for the highest revenue-generating work site,¹² and employment ranging from one to 10,000 employees. It should be noted that a number of work sites affected by the Rule are in the public sector, and do not show revenues in the Dun & Bradstreet database. Revenue information is also missing for a number of the private sector employers.

Estimated Rate of Return

For the purposes of this analysis, firms have been aggregated to 19 industry groups using standard NAICS classifications. Table 5 presents 10-year average net income as a percent of total receipts for each of the 19 industry groups per IRS compilations of corporate returns nationwide. The 10 year average rates of return range from 3.1 percent for wholesale trade and retail trade to 14.9 percent for finance and insurance.

Table 5: Returns on Total Receipts by Major Industry Group, 2002-2011, for Active Corporations

Major Industry Group	Total Receipts 2002-2011 (in \$000)	Net Income 2002-2011 (in \$000)	Net Income as % of Total Receipts
Agriculture, forestry, fishing, and hunting	\$1,427,436,128	\$80,015,224	5.6%
Mining	\$3,078,879,307	\$405,633,294	13.2%
Utilities	\$6,756,773,236	\$266,024,809	3.9%
Construction	\$13,023,186,262	\$628,863,407	4.8%
Manufacturing	\$67,330,611,407	\$4,480,545,730	6.7%
Wholesale trade	\$32,827,556,306	\$1,002,044,526	3.1%
Retail trade	\$32,987,334,141	\$1,013,826,381	3.1%
Transportation and warehousing	\$6,703,536,958	\$248,915,818	3.7%
Information	\$10,362,689,943	\$871,699,667	8.4%
Finance and insurance	\$32,130,457,408	\$4,660,263,282	14.5%
Real estate and rental and leasing	\$2,976,047,319	\$388,135,200	13.0%
Professional, scientific, and technical services	\$8,816,178,312	\$642,379,043	7.3%
Management of companies and enterprises	\$8,782,874,443	\$1,114,984,949	12.7%
Administrative and waste management services	\$4,327,717,038	\$211,148,422	4.9%
Educational services	\$401,097,131	\$38,215,565	9.5%
Health care and social assistance	\$5,643,445,621	\$339,850,846	6.0%
Arts, entertainment, and recreation	\$894,679,665	\$69,327,488	7.7%
Accommodation & food services	\$4,287,501,897	\$228,907,682	5.3%
Other services	\$1,888,140,439	\$91,454,030	4.8%

Source: Internal Revenue Service, Returns of Active Corporations, Table 1; BAE, 2013.

¹¹ Note that this compares Dun & Bradstreet data for the affected industries with overall employment data from EDD; there may be differences in enumeration such that this proportion should be considered a rough estimate.

¹² Revenue has been calculated based on revenue per employee firm-wide applied on a per employee basis to Bay Area work sites.

Compliance Costs

The impacted industries cover the entire economy, with broad variations in operations, configuration, and location. The potential compliance measures, however, are the same for all work sites, so cost factors should generally not vary by industry or business type. As noted above there are four benefit options from which employers could choose: Option 1, the pre-tax option, whereby the employer allows employees to exclude transit or vanpool costs from taxable wages; Option 2, an employer subsidy commuting by transit or vanpool; Option 3, employer-provide transportation (e.g., buses or vanpools to the work site), provided at no or low cost to the employee; or Option 4, an alternative commuter benefit that would provide reductions in single-occupant vehicle trips equal to or greater than the first three options.

For the purposes of this socioeconomic analysis, it is assumed that employers will elect to provide Option 1, the pre-tax option, because this option has the lowest net cost and is easy to set up and administer. One key factor here is that provision of Option 1 provides tax savings for employers, as described above. Information submitted by employers who comply with the City of San Francisco commuter benefits ordinance program provides empirical support for the assumption that employers will comply by offering Option 1.¹³ Following is a brief description of potential costs related to implementation of Option 1, followed by a discussion of the savings.

Costs

The costs for implementing a commuter check program can be broken down as follows:

1. Initial program setup costs
2. Ongoing program administration costs
3. Annual reporting costs
4. Program evaluation costs

Initial Program Costs

These costs are a one-time item applied on a per-firm basis. In the absence of any published estimates of compliance costs for a commuter benefits program, Air District staff has estimated, in hourly increments, the program costs for these four components.¹⁴ While costs are assumed to increase with employer size, these increases are not expected to be directly linear. BAE has then assumed an hourly wage based on Bay Area averages for compensation and benefits managers and compensation, benefits, and job analysis specialists, to estimate the total cost by firm size to implement a program. Additionally, the estimate of initial program costs is based on an assumption that a certain percentage of employers already provide commuter benefits to their employees. Because the startup costs for these employers will primarily relate to assessing the Rule and its implications for their current program, their costs should be considerably lower than firms

¹³ 84 percent of employers who comply with the San Francisco ordinance offer the pre-tax benefit. This includes 79 percent who comply by offering Option 1, plus an additional 5% who offer Option 1 in combination with Option 2.

¹⁴ "Estimated Employer Compliance Costs for Bay Area Commuter Benefits Program," August 26, 2013, BAAQMD.

implementing a new program from scratch. The current prevalence of commuter benefits programs is estimated to 50 percent among employers in San Francisco, where a similar requirement (the local commuter benefits ordinance) is already in place, and 31 percent elsewhere.¹⁵

Table 6 presents estimated initial program setup costs. For companies with a program already in place, costs for setup are estimated at approximately \$181; for companies with no program currently in place, costs range from \$662 to slightly more than \$1,200, depending on the number of employees. For the overall analysis, BAE has used a weighted average setup cost based on whether the business is in San Francisco or elsewhere, and the estimated prevalence of employers that currently provide commuter benefits programs.

¹⁵ MTC Commuter Benefits Ordinance Calculator, September 6, 2011, ICF International.

Table 6: Startup Compliance Costs

Task	Estimated Time (# hours):				Estimated Time (# hours):			
	Existing Program				New Program			
	# of Employees				# of Employees			
	50	100	500	1,000	50	100	500	1,000
Review the initial notice from the Air District & MTC	1	1	1	1	1	1	1	1
Designate a Commuter Benefits Coordinator	0	0	0	0	1	1	1	1
Review the employer assistance materials, evaluate the four options, and choose an option	1	1	1	1	3	3	5	5
Evaluate whether to administer commuter benefit in-house or to contract w a benefits administrator	0	0	0	0	2	2	3	3
Complete the employer registration form and submit the required information	1	1	1	1	1	1	1	1
Inform employees about the program & how to apply for the commute benefit selected	0	0	0	0	2	2	4	4
Enroll employees who request the benefit	0	0	0	0	1	2	3	5
Estimated Total Hours for initial program set-up	3	3	3	3	11	12	18	20

Mean Hourly Wage for Benefits Staff \$42.13
 Total with Benefits \$60.19 benefits @ 30% of total

Task	Estimated Cost:				Estimated Cost:			
	Existing Program				New Program			
	# of Employees				# of Employees			
	50	100	500	1,000	50	100	500	1,000
Review the initial notice from the Air District & MTC	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19
Designate a Commuter Benefits Coordinator	\$0.00	\$0.00	\$0.00	\$0.00	\$60.19	\$60.19	\$60.19	\$60.19
Review the employer assistance materials, evaluate the four options, and choose an option	\$60.19	\$60.19	\$60.19	\$60.19	\$180.57	\$180.57	\$300.95	\$300.95
Evaluate whether to administer commuter benefit in-house or to contract w a benefits administrator	\$0.00	\$0.00	\$0.00	\$0.00	\$120.38	\$120.38	\$180.57	\$180.57
Complete the employer registration form and submit the required information	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19	\$60.19
Inform employees about the program & how to apply for the commute benefit selected	\$0.00	\$0.00	\$0.00	\$0.00	\$120.38	\$120.38	\$240.76	\$240.76
Enroll employees who request the benefit	\$0.00	\$0.00	\$0.00	\$0.00	\$60.19	\$120.38	\$180.57	\$300.95
Estimated Total Wages for initial program set-up	\$180.57	\$180.57	\$180.57	\$180.57	\$662.09	\$722.28	\$1,083.42	\$1,203.80

Sources: BAAQMD, for estimates of hours required for compliance; EDD, for wage information; BLS (for National Compensation Survey), for benefits estimate; BAE, 2013.

Ongoing Program Administration Costs

BAAQMD staff has estimated ongoing program administrative costs per employee of \$3 to \$5 monthly per participating employee. This is the price range charged by third-party vendors who are available to administer commuter benefits for employers; it is assumed that an employer will contract with an outside vendor if its costs to administer the commuter benefit in-house would exceed this amount. The analysis here, to be conservative, uses the \$5 per employee figure for a total of \$60 per year for each participating employee.

Annual Reporting Costs

The Rule will require employers to update their registration information on an annual basis, via an on-line process in which the employer's Commuter Benefits Coordinator can log on to its record and update its information on-line as needed. In addition, the Rule will require employers to notify their employees about the commuter benefits they offer on an annual basis. BAAQMD staff estimate one to two hours of time annually of employer staff time. BAE has assumed two hours of time, using the same cost for benefits staff as above, \$60.19 per hour including benefits, for a total annual cost per firm of \$120.38.

Program Evaluation Costs

BAAQMD and MTC are required to submit a report to the Legislature in 2016 summarizing the results of the Program in reducing employee commute trips and motor vehicle emissions. The methodology that will be used to generate data needed for this report has not yet been determined. One of the options under consideration would be to perform an on-line survey of a subset of employers and employees to generate data for this report. This report submittal would be a one-time occurrence, requiring survey completion only once rather than on a recurring basis. Although it is not certain that such a survey will be needed, the potential costs to employers to facilitate administration of a survey are estimated and factored into the overall employer compliance costs, as described below.

BAAQMD staff estimate the employer survey will require one hour of employer staff time to complete. The employee survey is estimated to require one hour of employer staff time to coordinate and complete, and one hour of employer staff time per 500 employees to respond to employee questions. At \$60.19 per hour, this would be approximately \$0.12 per employee pro-rated.

It is assumed that five to ten minutes of employee time will be required for each employee to complete the survey. BAE has assumed 10 minutes, at the estimated employee hourly rate (with benefits) of \$43.85, or an average cost of \$7.31 per employee.

Analysis would not require participation of every firm; BAAQMD staff assume 10 percent to 15 percent of all impacted firms would be sampled. To compute overall costs to all firms, BAE has applied a 15 percent factor to each of the program evaluation costs above, as shown in Table 7.

Table 7: Administration, Annual Reporting Costs, and Program Evaluation Costs

Administration

\$5 per employee per year

Annual Reporting Costs

2 hours of staff time per employee
\$60.19 hourly wage cost for staff (same as for startup costs)
\$120.38 per firm per year

Program Evaluation Costs

Employer Survey

1 hour for completion
\$60.19 hourly wage cost for staff (same as for startup costs)
\$60.19 per firm selected (one-time)
15% of firms selected to complete survey
\$9.03 average per firm (one-time)

Employee Survey

1 hour to coordinate and distribute survey (regardless of firm size)
\$60.19 hourly wage cost for staff (same as for startup costs)
\$60.19 per firm selected (one-time)
15% of firms selected to complete survey
\$9.03 average per firm (one-time)

1 hour per 500 employees to respond to employee questions
\$60.19 use same wage + benefit rate
\$60.19 per 500 employees (one time) for firms selected
15% of firms selected to complete survey
\$0.02 average per firm (one-time)

10 minutes per employee to complete survey
\$43.85 Estimate of average hourly employee wages and benefits
15% of firms selected to complete survey
\$1.10 average per employee (one-time)

\$1.11 total average per employee (one-time)

Sources: BAAQMD, for estimates of hours required for compliance; EDD, for wage information; BLS (National Compensation Survey), for benefits estimate; BAE, 2013. BAE has chosen high end of BAAQMD estimates of time range.

Table 8 presents a summary of total net compliance costs by major industrial sector for 2015 for the impacted firms. These net costs take into account employer tax benefits for employees who choose to pay their transit or vanpool fares with pre-tax dollars pursuant to Option 1, but do not include tax benefits accruing to employees. Excluded from the analysis are firms for which revenue information was not available, including public sector entities. As shown, 17 of the 19 sectors show a net gain from implementing Option 1, as the employer tax savings are greater than the annualized costs. The results shown are for 2015. Since MTC and the Air District expect that the use of alternative commute modes will increase over time in response to employer commuter benefit programs, results from future years would show additional net gains across all sectors resulting from program implementation.

Table 8: Employer Compliance Costs by Major Industry Group, 2015

	Net Costs	Annualized Net Costs
Agriculture, forestry, fishing, and hunting		
Capital Costs	\$28,813	\$3,731
Annual Operating Costs	\$1,153	\$1,153
<i>Total Costs</i>	\$29,966	\$4,884
Mining		
Capital Costs	\$9,958	\$1,290
Annual Operating Costs	(\$101)	(\$101)
<i>Total Costs</i>	\$9,857	\$1,188
Utilities		
Capital Costs	\$31,336	\$4,058
Annual Operating Costs	(\$57,467)	(\$57,467)
<i>Total Costs</i>	(\$26,131)	(\$53,409)
Construction		
Capital Costs	\$323,106	\$41,842
Annual Operating Costs	(\$56,064)	(\$56,064)
<i>Total Costs</i>	\$267,042	(\$14,222)
Manufacturing		
Capital Costs	\$1,024,173	\$132,630
Annual Operating Costs	(\$349,137)	(\$349,137)
<i>Total Costs</i>	\$675,035	(\$216,507)
Wholesale trade		
Capital Costs	\$341,940	\$44,281
Annual Operating Costs	(\$70,447)	(\$70,447)
<i>Total Costs</i>	\$271,493	(\$26,166)
Retail trade		
Capital Costs	\$628,215	\$81,354
Annual Operating Costs	(\$357,682)	(\$357,682)
<i>Total Costs</i>	\$270,532	(\$276,329)
Transportation and warehousing		
Capital Costs	\$204,315	\$26,459
Annual Operating Costs	(\$111,912)	(\$111,912)
<i>Total Costs</i>	\$92,403	(\$85,453)
Information		
Capital Costs	\$387,951	\$50,240
Annual Operating Costs	(\$313,703)	(\$313,703)
<i>Total Costs</i>	\$74,249	(\$263,463)
Finance and insurance		
Capital Costs	\$411,318	\$53,266
Annual Operating Costs	(\$611,039)	(\$611,039)
<i>Total Costs</i>	(\$199,721)	(\$557,773)

Notes:

The figures in red font and in parentheses represent savings; continued on next page.

Table 8: Employer Compliance Costs by Major Industry Group, 2015, continued

	Net Costs	Annualized Net Costs
Real estate and rental and leasing		
Capital Costs	\$173,946	\$22,526
Annual Operating Costs	<u>(\$80,573)</u>	<u>(\$80,573)</u>
<i>Total Costs</i>	\$93,373	<i>(\$58,047)</i>
Professional, scientific, and technical services		
Capital Costs	\$879,453	\$113,889
Annual Operating Costs	<u>(\$653,959)</u>	<u>(\$653,959)</u>
<i>Total Costs</i>	\$225,494	<i>(\$540,070)</i>
Management of companies and enterprises		
Capital Costs	\$6,882	\$891
Annual Operating Costs	<u>(\$6,647)</u>	<u>(\$6,647)</u>
<i>Total Costs</i>	\$234	<i>(\$5,756)</i>
Administrative and waste management services		
Capital Costs	\$394,442	\$51,080
Annual Operating Costs	<u>(\$208,022)</u>	<u>(\$208,022)</u>
<i>Total Costs</i>	\$186,420	<i>(\$156,942)</i>
Educational services		
Capital Costs	\$425,063	\$55,046
Annual Operating Costs	<u>(\$356,805)</u>	<u>(\$356,805)</u>
<i>Total Costs</i>	\$68,258	<i>(\$301,759)</i>
Health care and social assistance		
Capital Costs	\$659,519	\$85,408
Annual Operating Costs	<u>(\$930,200)</u>	<u>(\$930,200)</u>
<i>Total Costs</i>	<i>(\$270,680)</i>	<i>(\$844,792)</i>
Arts, entertainment, and recreation		
Capital Costs	\$144,076	\$18,658
Annual Operating Costs	<u>(\$45,401)</u>	<u>(\$45,401)</u>
<i>Total Costs</i>	\$98,675	<i>(\$26,743)</i>
Accommodation & food services		
Capital Costs	\$513,935	\$66,555
Annual Operating Costs	<u>(\$352,913)</u>	<u>(\$352,913)</u>
<i>Total Costs</i>	\$161,022	<i>(\$286,359)</i>
Other services		
Capital Costs	\$198,642	\$25,724
Annual Operating Costs	<u>(\$86,821)</u>	<u>(\$86,821)</u>
<i>Total Costs</i>	\$111,822	<i>(\$61,097)</i>

Notes:

Capital costs have been annualized based on a capital cost factor of 0.1295, based on a 5% interest rate applied over 10 years.

The figures in red font and in parentheses represent savings.

Sources: BAAQMD, 2013; BAE, 2013.

Variations by sector are due to a combination of factors that may differ by firm type, including the degree and quality of transit service to the worksite, which in turn impacts the rate of employee participation in the commuter benefits program, and thus the tax savings to the employer. For instance, the finance and insurance sector is more focused in San Francisco and other office locations which tend to have good transit access and hence are assumed to have greater participation in a commuter checks program. Additionally, since some of the costs are fixed regardless of firm size, sectors with a greater proportion of small firms would also be likely to show higher costs relative to the tax benefits available.

To assess whether the impacts would be greater for smaller firms due to the fixed costs, BAE has also completed the compliance cost analysis for firms with less than 75 employees in the Bay Area aggregated by major industry sector. As shown in Table 9, for small employers, only three of the 19 sectors (information, finance and insurance, and professional, scientific, and technical services) show a net gain resulting from implementation of a commuter benefits program. These are sectors concentrated in office locations and hence more likely to be in San Francisco or otherwise situated near transit.

Table 9: Employer Compliance Costs by Major Industry Group for Small Employers, 2015

	Net Costs	Annualized Net Costs
Agriculture, forestry, fishing, and hunting		
Capital Costs	\$10,470	\$1,356
Annual Operating Costs	\$2,290	\$2,290
<i>Total Costs</i>	\$12,760	\$3,646
Mining		
Capital Costs	\$2,019	\$262
Annual Operating Costs	\$360	\$360
<i>Total Costs</i>	\$2,379	\$621
Utilities		
Capital Costs	\$7,812	\$1,012
Annual Operating Costs	(\$450)	(\$450)
<i>Total Costs</i>	\$7,362	\$562
Construction		
Capital Costs	\$115,756	\$14,990
Annual Operating Costs	\$7,603	\$7,603
<i>Total Costs</i>	\$123,359	\$22,594
Manufacturing		
Capital Costs	\$211,795	\$27,427
Annual Operating Costs	\$17,638	\$17,638
<i>Total Costs</i>	\$229,433	\$45,065
Wholesale trade		
Capital Costs	\$117,910	\$15,269
Annual Operating Costs	\$3,546	\$3,546
<i>Total Costs</i>	\$121,456	\$18,816
Retail trade		
Capital Costs	\$123,197	\$15,954
Annual Operating Costs	\$6,665	\$6,665
<i>Total Costs</i>	\$129,862	\$22,619
Transportation and warehousing		
Capital Costs	\$43,480	\$5,631
Annual Operating Costs	\$456	\$456
<i>Total Costs</i>	\$43,936	\$6,087
Information		
Capital Costs	\$82,186	\$10,643
Annual Operating Costs	(\$13,290)	(\$13,290)
<i>Total Costs</i>	\$68,896	(\$2,647)
Finance and insurance		
Capital Costs	\$80,505	\$10,425
Annual Operating Costs	(\$21,783)	(\$21,783)
<i>Total Costs</i>	\$58,722	(\$11,358)

Notes:

The figures in red font and in parentheses represent savings; continued on next page.

Table 9: Employer Compliance Costs by Major Industry Group for Small Employers, 2015, continued

Real estate and rental and leasing	Net Costs	Annualized Net Costs
Capital Costs	\$61,278	\$7,935
Annual Operating Costs	<u>(\$6,255)</u>	<u>(\$6,255)</u>
<i>Total Costs</i>	\$55,023	\$1,681
Professional, scientific, and technical services	Net Costs	Annualized Net Costs
Capital Costs	\$296,139	\$38,350
Annual Operating Costs	<u>(\$55,141)</u>	<u>(\$55,141)</u>
<i>Total Costs</i>	\$240,998	<u>(\$16,791)</u>
Management of companies and enterprises	Net Costs	Annualized Net Costs
Capital Costs	\$990	\$128
Annual Operating Costs	<u>\$210</u>	<u>\$210</u>
<i>Total Costs</i>	\$1,200	\$338
Administrative and waste management services	Net Costs	Annualized Net Costs
Capital Costs	\$122,015	\$15,801
Annual Operating Costs	<u>(\$3,703)</u>	<u>(\$3,703)</u>
<i>Total Costs</i>	\$118,312	\$12,098
Educational services	Net Costs	Annualized Net Costs
Capital Costs	\$63,734	\$8,254
Annual Operating Costs	<u>\$662</u>	<u>\$662</u>
<i>Total Costs</i>	\$64,396	\$8,916
Health care and social assistance	Net Costs	Annualized Net Costs
Capital Costs	\$128,163	\$16,597
Annual Operating Costs	<u>\$661</u>	<u>\$661</u>
<i>Total Costs</i>	\$128,823	\$17,258
Arts, entertainment, and recreation	Net Costs	Annualized Net Costs
Capital Costs	\$48,301	\$6,255
Annual Operating Costs	<u>\$382</u>	<u>\$382</u>
<i>Total Costs</i>	\$48,683	\$6,637
Accommodation & food services	Net Costs	Annualized Net Costs
Capital Costs	\$143,016	\$18,521
Annual Operating Costs	<u>(\$10,194)</u>	<u>(\$10,194)</u>
<i>Total Costs</i>	\$132,822	\$8,326
Other services	Net Costs	Annualized Net Costs
Capital Costs	\$68,733	\$8,901
Annual Operating Costs	<u>(\$5,206)</u>	<u>(\$5,206)</u>
<i>Total Costs</i>	\$63,527	\$3,695

Notes:

Capital costs have been annualized based on a capital cost factor of 0.1295, based on a 5% interest rate applied over 10 years. Includes only firms with less than 75 employees in the Bay Area.

The figures in red font and in parentheses represent savings.

Sources: BAAQMD, 2013; BAE, 2013.

Economic Impacts Analysis for Affected Industries

In order to determine the impacts of these measures on the firms covered by the Rule, the analysis that follows compares annualized compliance costs to annual profits. The analysis then calculates the compliance costs as a percentage of profits to determine the level of impact. BAAQMD uses the ARB's 10 percent threshold as a proxy for burden. Annualized compliance costs resulting in profit losses of 10 percent or more indicate that the proposed compliance measure has the potential for significant adverse economic impacts. Since there are far too many firms to reasonably assess impacts on a firm-by-firm basis, where future participation is estimated rather than known, this analysis consists of three steps.

1. Overall sectoral compliance costs (from Table 8 above) are compared to the profit margins by sector derived from IRS data, to see how particular sectors fare with respect to the 10 percent burden threshold.
2. Since smaller firms will have greater impacts due to fixed costs, sectors will be assessed relative to the 10 percent burden for firms of less than 75 Bay Area employees, whose compliance costs are shown in Table 9.
3. As a "worst case" scenario, compliance costs are estimated for a hypothetical firm with 50 Bay Area employees in each sector, assuming no employee participation and thus no tax savings to the employer. The compliance costs are then compared with estimated average revenues for that sector as generated on a per-employee basis.

It is important to note that not all firms in the Dun & Bradstreet database have the revenue information necessary to do this analysis; such firms have been excluded from this economic impact analysis.

Overall Sectoral Impact on Profits

Table 10 shows the estimated annualized compliance costs as a share of total profits by sector. As shown, the share of annual profits by sector is insignificant across all sectors, with no sector with a share of annual profit greater than one-tenth of one percent. Note: For sectors where employers would experience a net savings, compliance costs are shown as "NA" (i.e., not applicable) in the "Share of Annual Profit" column.

Impact on Profits at Small Firms by Sector

Table 11 shows the estimated impacts on profits for firms of 50 to 74 employees. While the proportion of annual profits is more than for the sectors overall, the highest reduction in annual profit is still estimated to be only 0.054 percent of profits, well below the 10 percent threshold.

Table 10: Compliance Costs as Share of Profit, 2015, All Impacted Firms

All dollar amounts in thousands

Major Sector	Estimated Annual Revenues	Estimated Return on Revenues	Estimated Annual Profits	Annualized Compliance Cost, 2015	Share of Annual Profit
Agriculture, forestry, fishing, and hunting	\$378,991	5.6%	\$21,244	\$5	0.024%
Mining	\$499,174	13.2%	\$65,765	\$0	0.001%
Utilities	\$6,372,038	3.9%	\$250,877	(\$52)	NA
Construction	\$10,140,909	4.8%	\$489,684	(\$1)	NA
Manufacturing	\$104,315,595	6.7%	\$6,941,728	(\$129)	NA
Wholesale trade	\$11,342,338	3.1%	\$346,219	(\$14)	NA
Retail trade	\$20,477,161	3.1%	\$629,341	(\$122)	NA
Transportation and warehousing	\$2,911,305	3.7%	\$108,103	(\$26)	NA
Information	\$12,531,955	8.4%	\$1,054,176	(\$153)	NA
Finance and insurance	\$80,595,384	14.5%	\$11,689,709	(\$421)	NA
Real estate and rental and leasing	\$1,706,231	13.0%	\$222,526	(\$42)	NA
Professional, scientific, and technical services	\$18,486,390	7.3%	\$1,346,986	(\$238)	NA
Management of companies and enterprises	\$56,182	12.7%	\$7,132	\$0.2	0.003%
Administrative and waste management services	\$4,655,150	4.9%	\$227,124	(\$110)	NA
Educational services	\$13,547,310	9.5%	\$1,290,755	(\$220)	NA
Health care and social assistance	\$22,790,372	6.0%	\$1,372,446	(\$194)	NA
Arts, entertainment, and recreation	\$1,394,685	7.7%	\$108,072	(\$10)	NA
Accommodation & food services	\$3,616,288	5.3%	\$193,072	(\$163)	NA
Other services	\$2,363,276	4.8%	\$114,468	(\$42)	NA

Excludes firms for which Dun & Bradstreet has no revenue information.

The figures in red font and in parentheses represent savings.

Sources: Dun & Bradstreet; IRS; BAAQMD, 2013; BAE, 2013.

Table 11: Compliance Costs as Share of Profit, 2015, Firms with < 75 Employees

All dollar amounts in thousands

Major Sector	Estimated Annual Revenues	Estimated Return on Revenues	Estimated Annual Profits	Annualized Compliance Cost, 2015	Share of Annual Profit
Agriculture, forestry, fishing, and hunting	\$115,100	5.6%	\$6,452	\$3.47	0.054%
Mining	\$15,701	13.2%	\$2,069	\$0.29	0.014%
Utilities	\$146,426	3.9%	\$5,765	\$0.85	0.015%
Construction	\$1,796,031	4.8%	\$86,727	\$21.64	0.025%
Manufacturing	\$2,940,167	6.7%	\$195,655	\$34.33	0.018%
Wholesale trade	\$1,971,529	3.1%	\$60,180	\$14.04	0.023%
Retail trade	\$2,058,233	3.1%	\$63,257	\$17.13	0.027%
Transportation and warehousing	\$309,496	3.7%	\$11,492	\$3.40	0.030%
Information	\$675,861	8.4%	\$56,853	(\$0.83)	NA
Finance and insurance	\$1,210,390	14.5%	\$175,557	(\$5.39)	NA
Real estate and rental and leasing	\$320,086	13.0%	\$41,746	\$0.53	0.001%
Professional, scientific, and technical services	\$2,778,032	7.3%	\$202,418	(\$6.31)	NA
Management of companies and enterprises	\$4,800	12.7%	\$609	\$0.17	0.028%
Administrative and waste management services	\$944,915	4.9%	\$46,102	\$12.32	0.027%
Educational services	\$455,218	9.5%	\$43,372	\$8.50	0.020%
Health care and social assistance	\$850,623	6.0%	\$51,225	\$14.22	0.028%
Arts, entertainment, and recreation	\$291,658	7.7%	\$22,600	\$6.30	0.028%
Accommodation & food services	\$502,499	5.3%	\$26,828	\$7.64	0.028%
Other services	\$483,222	4.8%	\$23,405	\$2.83	0.012%

Excludes firms for which Dun & Bradstreet has no revenue information.

The figures in red font and in parentheses represent savings.

Sources: Dun & Bradstreet; IRS; BAAQMD, 2013; BAE, 2013.

Worst-Case Scenario by Sector

Since some costs are fixed regardless of firm size, the greatest impacts would be likely fall on the firms with the fewest employees, and likely the lowest revenues. These small firms may also have difficulty garnering participation in a commuter benefits program, especially if transit options are limited. To assess the potential “worst case” impacts by sector, BAE assumed a firm of 50 Bay Area employees for each major sector, with no program previously in place, and no participation in the program (thus generating no tax benefits for the employer). Even under this scenario, the loss of profit is under one percent across all sectors, still far below the 10 percent ARB threshold (see Table 12).

Table 12: Compliance Costs as Share of Profit, 2015, Worst Case Scenario

All dollar amounts in thousands

Major Sector	Estimated Annual Revenues	Estimated Return on Revenues	Estimated Annual Profits	Annualized Compliance Cost, 2015	Share of Annual Profit
Agriculture, forestry, fishing, and hunting	\$5,404	5.6%	\$303	\$0.27	0.089%
Mining	\$6,542	13.2%	\$862	\$0.27	0.031%
Utilities	\$11,178	3.9%	\$440	\$0.27	0.061%
Construction	\$7,772	4.8%	\$375	\$0.27	0.072%
Manufacturing	\$8,030	6.7%	\$534	\$0.27	0.050%
Wholesale trade	\$10,301	3.1%	\$314	\$0.27	0.086%
Retail trade	\$9,608	3.1%	\$295	\$0.27	0.091%
Transportation and warehousing	\$4,860	3.7%	\$180	\$0.27	0.150%
Information	\$5,217	8.4%	\$439	\$0.27	0.061%
Finance and insurance	\$11,543	14.5%	\$1,674	\$0.27	0.016%
Real estate and rental and leasing	\$2,863	13.0%	\$373	\$0.27	0.072%
Professional, scientific, and technical services	\$5,573	7.3%	\$406	\$0.27	0.066%
Management of companies and enterprises	\$4,800	12.7%	\$609	\$0.27	0.044%
Administrative and waste management services	\$4,538	4.9%	\$221	\$0.27	0.122%
Educational services	\$3,705	9.5%	\$353	\$0.27	0.076%
Health care and social assistance	\$3,589	6.0%	\$216	\$0.27	0.125%
Arts, entertainment, and recreation	\$2,988	7.7%	\$232	\$0.27	0.117%
Accommodation & food services	\$1,835	5.3%	\$98	\$0.27	0.275%
Other services	\$3,883	4.8%	\$188	\$0.27	0.143%

Based on one firm in each sector with 50 Bay Area employees, with no program currently in place. Revenues based on average per employee by major sector. Also assumes firm is selected to be in survey sample.

Sources: Dun & Bradstreet; IRS; BAAQMD, 2013; BAE, 2013.

As these tables show, for firms at average revenue levels by sector, annualized compliance costs are far below the 10 percent burden threshold across the board, even for the smallest firms with zero program participation. This indicates that even firms performing well below average will not likely face a high burden on profits due to implementation of the Rule.

Affected Industries and Regional Impacts

On average, the proposed Rule would not result in significant economic impacts to firms within the affected industries. Even for a “worst case scenario,” where a firm implements the proposed Rule using the pre-tax option and no employees participate, the impacts on typical profits by major industry group are negligible, far below the 10 percent threshold.

Regional Direct, Indirect, and Induced Impacts

Regional direct, indirect, and induced impacts refer to regional multiplier effects of increasing or decreasing regional economic activity. To the extent that the proposed Rule creates either a net revenue loss or gain for impacted firms, this would result in changes in direct regional economic and employment. Firms would also either have more or less money to spend to on goods and services from local suppliers, thereby resulting in indirect impacts, or business-to-business expenditures, and changes in employment at suppliers through the chain of impacted firms. In addition, impacted businesses would either have more or less money to spend hiring regional residents, resulting in a change in induced impacts resulting from worker household spending. Table 13 summarizes these impacts in 2015 for businesses across the entire range of the economy.

As shown in the table and discussed above, the total of compliance costs including tax savings is actually a net benefit for some firms, since the tax benefit is greater than the compliance costs. In fact, most major sectors show a net positive revenue flow overall (see Table 8 above).

As a result, most sectors also show positive impacts. Using RIMS II multipliers from the Bureau of Economic Analysis,¹⁶ the overall estimated direct and indirect impacts would be positive, totaling approximately \$21 million in 2015. Induced impacts from household expenditures of new workers at impacted firms would total approximately \$9 million additionally in 2015.¹⁷ The increased revenues would result in 142 new direct and indirect jobs, and an additional 69 induced jobs.

While the levels of impacts shown here would be substantial if resulting from a single work site or firm, in the context of the entire economy the impacts are negligible. The total direct, indirect, and induced dollar impacts are less than 0.01 percent of revenues estimated for the impacted firms, and employment impacts are also less than 0.01 percent of estimated employment for those same firms. The estimated dollar impacts are approximately 0.005 percent of the region’s 2012 gross domestic product. Since MTC and the Air District expect that the use of alternative commute modes will increase over time in response to employer commuter benefit programs, the net revenue changes would likely be more positive in future years, with a modest increase in resulting impacts.

¹⁶ The Regional Input-Output Modeling System (RIMS II), a regional economic model, is a tool used by investors, planners, and elected officials to objectively assess the potential economic impacts of various projects. This model produces multipliers that are used in economic impact studies to estimate the total impact of a project on a region. (from *RIMS II: An Essential Tool for Regional Developers and Planners*, Bureau of Economic Analysis)

¹⁷ Note that this analysis assumes all of the revenues and expenses would occur in the Bay Area. To the extent that costs and savings would accrue outside the area (e.g., compliance costs occurring at a headquarters location outside the Bay Area), the impacts/benefits here may be somewhat overstated.

Table 13: Direct, Indirect, and Induced Impacts by Major Industry Group

Major Sector	Dollar Impacts		Change in Number of Jobs	
	Direct & Indirect Output Impacts	Induced Output Impacts	Direct & Indirect Employment Impacts	Induced Employment Impacts
Agriculture, forestry, fishing, and hunting	(\$10,418)	(\$601)	(0.145)	(0.006)
Mining	(\$3,916)	(\$89)	(0.013)	(0.000)
Utilities	\$69,037	\$13,187	0.095	0.018
Construction	\$21,004	\$2,942	0.154	0.022
Manufacturing	\$5,077,872	\$557,463	21.421	1.469
Wholesale trade	\$65,451	\$33,809	0.306	0.158
Retail trade	\$345,162	\$801,242	4.166	9.671
Transportation and warehousing	\$778,922	\$62,466	5.332	0.448
Information	\$1,927,416	\$499,921	6.253	1.313
Finance and insurance	\$4,615,241	\$2,220,943	22.607	9.595
Real estate and rental and leasing	\$251,877	\$334,925	1.067	1.661
Professional, scientific, and technical services	\$2,524,936	\$911,747	18.008	6.506
Management of companies and enterprises	\$13,354	\$2,121	0.068	0.011
Administrative and waste management services	\$600,945	\$131,533	7.494	1.952
Educational services	\$312,019	\$183,168	4.559	2.673
Health care and social assistance	\$3,435,261	\$3,218,403	45.114	29.678
Arts, entertainment, and recreation	\$64,563	\$11,967	0.906	0.170
Accommodation	\$239,883	\$88,469	1.951	0.720
Food services	\$121,543	\$116,132	1.899	1.815
Other services	\$98,543	\$93,918	0.829	0.790
TOTAL IMPACTS	\$20,548,696	\$9,283,664	142.1	68.7
As % of Impacted Firms	0.006%	0.003%	0.006%	0.003%
As % of Bay Area Gross Domestic Product	0.004%	0.002%		

Multipliers to calculate impacts from Bureau of Economic Analysis is RIMS II Input-Output. Assumes all the savings and costs are kept in the Bay Area, even if firm is headquartered elsewhere. 2012 gross domestic product also from Bureau of Economic Analysis. Direct impacts consist of the direct net costs/savings associated with Rule implementation.

Black font indicates savings to employers. **Red font** indicates net costs.

Sources: Dun & Bradstreet; BAAQMD; Bureau of Economic Analysis; BAE, 2013.

In addition to the impacts resulting from employer implementation of the proposed Rule through a pre-tax commuter check program, existing employees using the program will see tax savings, effectively increasing their earnings.¹⁸ Some of these earnings will in turn result in new expenditures in the Bay Area, with additional impacts as the new dollars circulate through the Bay Area economy. As shown in Table 14, the approximately \$71 million in additional earnings retained in the Bay Area in 2015 are estimated to result in an additional \$84 million in induced economic activity, resulting in 613 additional jobs. While these are small numbers relative to the overall Bay Area economy, these benefits are greater than those resulting from the overall increase in employer revenue resulting from implementation of the Rule.

¹⁸ Impacts from earnings for new hires are already included in the analysis by sector as shown in in Table 13.

Table 14: Induced Impacts from Increased Household Earnings in 2015

Total Annual Employer Tax Savings, 2015	\$70,614,594
Final Demand Output Multiplier	1.1905
Change in Output due to Change in Earnings	\$84,066,674
Final Demand Employment Multiplier (per million dollars in tax savings)	8.6755
Change in Employment due to Change in Earnings	613

Multipliers to calculate impacts from Bureau of Economic Analysis RIMS II Input-Output model.

Sources: Dun & Bradstreet; BAAQMD; Bureau of Economics Analysis; BAE, 2013.

IMPACTS ON SMALL BUSINESSES

According to California Government Code 14835, a small business is any business that meets the following requirements:

- Must be independently owned and operated;
- Cannot be dominant in its field of operation;
- Must have its principal office located in California;
- Must have its owners (or officers in the case of a corporation) domiciled in California; and
- Together with its affiliates, be either:
 - A business with 100 or fewer employees, and an average annual gross receipts of \$10 million or less over the previous three tax years, or
 - A manufacturer with 100 or fewer employees.

There are a number of firms covered by the Rule that meet these criteria. However, the analysis of the worst-case scenario above, of a hypothetical firm with 50 employees with no participation in a commuter check program (see Table 12 above) indicates that across all sectors, for a typical firm of this size with average revenues, the costs would not impact profits at anywhere near the Air Resources Board benchmark threshold of 10 percent of profits. This indicates that the impacts on small businesses would not be significant.

Appendix C

California Environmental Quality Act Initial Study and Negative Declaration

**Initial Study/Negative Declaration for the
Bay Area Air Quality Management District Regulation 14,
Mobile Source Emission Reduction Measures
Rule 1 - Bay Area Commuter Benefits Program**

Prepared for:

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
Contact: Ian Peterson
(415) 749-4783

March 2014

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Chapter 1

INTRODUCTION

Purpose of This Document

This Negative Declaration assesses the environmental impacts of the proposed adoption of Regulation 14, Mobile Source Emission Reduction Measures – Rule 1, Bay Area Commuter Benefits Program. This assessment is required by the California Environmental Quality Act (CEQA) and in compliance with the State CEQA Guidelines (Title 14 California Code of Regulations §15000 et seq.). A Negative Declaration serves as an informational document to be used in the decision-making process for a public agency that intends to carry out a project; it does not recommend approval or denial of the project analyzed in the document. The BAAQMD is the lead agency under CEQA and must consider the impacts of the proposed rule when determining whether to adopt them. The BAAQMD has prepared this Negative Declaration because no significant adverse impacts are expected to result from the proposed rule.

Scope of This Document

This document evaluates the potential impacts of the proposed amendments on the following resource areas:

- aesthetics,
- agriculture and forestry resources,
- air quality,
- biological resources,
- cultural resources,
- geology / soils,
- greenhouse gas emissions,
- hazards & hazardous materials,
- hydrology / water quality,
- land use / planning
- mineral resources,
- noise,
- population / housing,
- public services,
- recreation,
- transportation / traffic, and
- utilities / service systems.

Impact Terminology

The following terminology is used in this Initial Study/Negative Declaration to describe the levels of significance of impacts that would result from the proposed rule:

- An impact is considered *beneficial* when the analysis concludes that the project would have a positive effect on a particular resource.
- A conclusion of *no impact* is appropriate when the analysis concludes that there would be no impact on a particular resource from the proposed project.
- An impact is considered *less than significant* if the analysis concludes that an impact on a particular resource topic would not be significant (i.e., would not exceed certain criteria or guidelines established by BAAQMD). Impacts are frequently considered less than significant when the changes are minor relative to the size of the available resource base or would not change an existing resource.
- An impact is considered *less than significant with mitigation incorporated* if the analysis concludes that an impact on a particular resource topic would be significant (i.e., would exceed certain criteria or guidelines established by BAAQMD), but would be reduced to a less than significant level through the implementation of mitigation measures.

Organization of This Document

The content and format of this document, described below, are designed to meet the requirements of CEQA.

- Chapter 1, “Introduction,” identifies the purpose, scope, and terminology of the document.
- Chapter 2, “Description of the Proposed Rule,” provides background information of Regulation 14, Rule 1, describes the proposed rule, and generally describes the intended effects of the rule’s requirements.
- Chapter 3, “Environmental Checklist,” presents the checklist responses for each resource topic. This chapter includes a brief setting description for each resource area and identifies any potential impact of the proposed rule on the resources topics listed in the checklist.
- Chapter 4, “References” identifies all printed references and personal communications cited in this document.
- Chapter 5, “Acronyms” provides a list of all abbreviations used in this document.

Chapter 2

DESCRIPTION OF PROPOSED RULE

Project Information

- | | |
|--|--|
| 1. Project Title | Bay Area Commuter Benefits Program |
| 2. Lead Agency Name and Address | Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109 |
| 3. Contact Person and Phone Number | Ian Peterson, Environmental Planner II
415-749-4783 or ipeterson@baaqmd.gov |
| 4. Project Location | The Bay Area Commuter Benefits Program would apply to the area within the jurisdiction of the Bay Area Air Quality Management District which encompasses all of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa, and portions of southwestern Solano and southern Sonoma Counties. |
| 5. Project Sponsor's Name and Address | Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109 |
| 6. General Plan Designation | See "Project Description" |
| 7. Zoning | See "Project Description" |
| 8. Description of Project | A Program to encourage the use of transit and other alternative commute modes, such as vanpools, carpools, biking, walking, and telecommuting. |
| 9. Surrounding Land Uses and Setting | See "Setting" |
| 10. Other Public Agencies Whose Approval Is Required | Metropolitan Transportation Commission |

Background

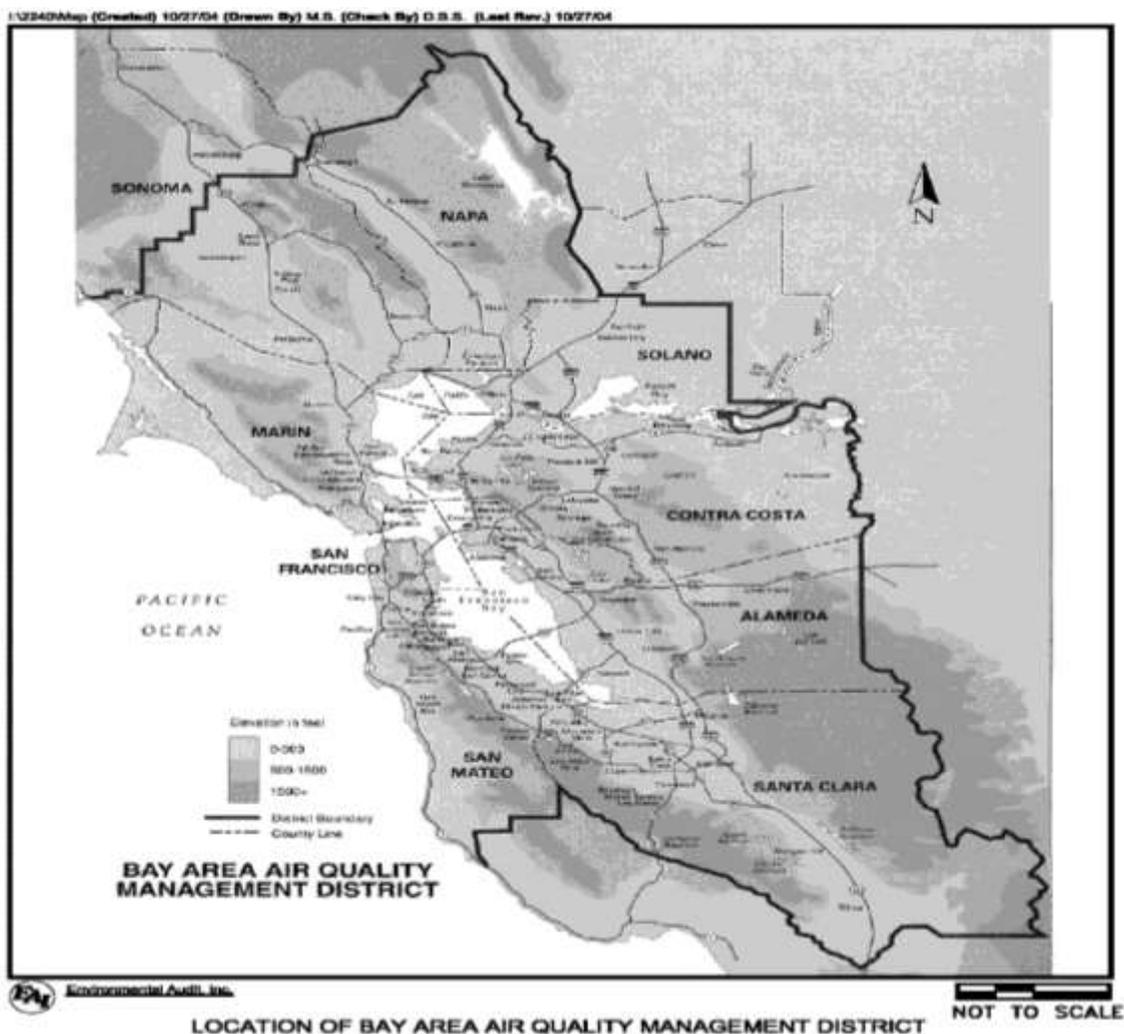
The California State Legislature created the Bay Area Air Quality Management District (Air District) in 1955 as the agency primarily responsible for developing and enforcing rules and regulations to reduce air pollution and improve public health in the San Francisco Bay Area Air Basin (SFBAAB). The Air District is governed by a 22-member Board of Directors (Board) composed of locally elected officials from each of the nine Bay Area counties. The Board oversees policies and adopted regulations for the control of air pollution within the Air District. The Air District's jurisdiction encompasses all of seven counties – Alameda, Contra

Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa – and the southwestern portions of Solano and southern Sonoma Counties (see figure 1, below).

The Air District, in partnership with the Metropolitan Transportation Commission (MTC) is developing the Bay Area Commuter Benefits Program (Program) pursuant to authority under California State Government Code §65081, as enacted by Senate Bill 1339 (Yee, 2012). The Program would be implemented through adoption of a new regulation, Regulation 14 (Mobile Source Emission Reduction Measures), Rule 1. The proposed Program is modeled on local commuter benefit ordinances that have been adopted by several Bay Area entities in recent years, including the City and County of San Francisco, San Francisco International Airport, the City of Berkeley, and the City of Richmond.

The proposed Program seeks to reduce single-occupant vehicle commute trips to Bay Area work sites. The key objective of the proposed Program is to reduce motor vehicle travel, and the related emissions of greenhouse gases and other air pollutants, by requiring employers to encourage their employees to use transit and other alternative commute modes. The Program will not impose any numerical targets or standards on employers, nor would it require any individual commuter to change his or her commute mode.

Figure 1: BAAQMD Jurisdictional Boundary



Project Description

Pursuant to Government Code §65081(b), the Air District and MTC are authorized to develop and adopt a Bay Area Commuter Benefits Program (Program). The Air District, in association with MTC, developed the Program following its normal rule-making process that included extensive public outreach efforts and educational opportunities for employers during the months leading up to undertaking the environmental review process. A proposed new rule (Regulation 14, Rule 1) has been developed by Air District staff to serve as the foundation for the Program. If approved, the Program will require any public, private, or non-profit employer with 50 or more full-time employees within the jurisdictional boundary of the Air District to offer one of four options to its employees. As defined by statute and outlined below, the key substantive requirement of the Program is that employers subject to the Program (who do not already offer a compliant commuter benefit to their employees) would need to offer one of the following commuter benefits:

1. Pretax Option: consistent with Section 132(f)(2)(A) “Qualified Transportation Fringe Benefits” of the Internal Revenue Code, this option allows employees to pay for their transit or vanpool expenses with pre-tax dollars; or
2. Employer-provided Subsidy: an employer-provided subsidy to offset the cost of commuting via public transit or by vanpool. The subsidy shall equal the monthly cost of commuting via transit or vanpool, or \$75, whichever is lower. The amount shall be adjusted annually, consistent with the California Consumer Price Index; or
3. Employer-provided Transportation: transportation furnished by the employer at no cost, or low cost, as determined by the Air District, to the covered employee in a vanpool or bus, or similar multi-passenger vehicle operated by or for the employer; or
4. Alternative Benefit: the Air District may approve an alternative method that would be as effective as the other three options in reducing single-occupant vehicle trips (and/or vehicle emissions).

The Program would also require employers to (1) designate an employee to serve as the Commuter Benefits Coordinator, (2) select one of the commuter benefit options described above to provide to covered employees, (3) register with the Air District and MTC (via an on-line registration system), (4) notify employees about the commuter benefit and how to apply for it, and (5) provide the Air District and MTC with data necessary to evaluate the effectiveness of the Program.

Federal law, as codified in IRS Code 132(f), defines commuter benefits for transit and vanpooling as “qualified transportation fringe benefits” that are not taxable to the employee. The Air District anticipates that most employers will choose to offer Option 1 (i.e. to allow their employees to use pre-tax dollars to cover their monthly transit or vanpool costs). This can substantially reduce the out-of-pocket costs of transit and vanpools to employees. The employer also saves money because it does not have to pay FICA taxes (Social Security and Medicare) on the dollars that the employee sets aside to pay his or her transit or vanpool fares. Option 1 can provide savings to employers of 7.65% or more on wages set aside by employees as pre-tax; depending on their tax bracket, employees can save 40% or more on their net costs for transit or vanpools. Many Bay Area employers already offer one or more commuter benefit to their employees. The purpose of the Program is to expand the number of Bay Area employers who make the federal commuter tax benefits (Option 1 above), or some other equally effective commuter benefit, available to their employees.

In addition to reducing emissions of greenhouse gases and other air pollutants, the Program is expected to result in a variety of positive outcomes, including direct savings in payroll taxes for employers and income taxes for employees, helping employers to recruit and retain employees, reducing commuter peak period traffic congestion on Bay Area roadways, protecting public health, and helping the Bay Area to attain and maintain State and national air quality standards.

The proposed Program would remain in effect until January 1, 2017, unless extended by subsequent statute.

Project Goals and Objectives

The proposed Program is designed to improve air quality by reducing emissions of criteria air pollutants and greenhouse gases from motor vehicles, while improving the efficiency of the region's transportation network. The Program aims at reducing the volume of single-occupant motor vehicles that are primarily driven during weekday peak hour commute times. Notably, several local governments have already adopted and begun implementing similar commuter benefit ordinances in the Bay Area (see City & County of San Francisco, Program No. 199-08 of the San Francisco Environmental Code; City of Berkeley, Program No. 7, 113-N.S., Chapter 9.88 of the Berkeley Municipal Code; and City of Richmond, Program 22-09 N.S., Chapter 9.62 of the Richmond Municipal Code). By expanding the number of employers who offer commuter benefits, the Program would reduce worker commute costs and employer payroll taxes, help retain and increase transit ridership, encourage healthier modes of travel, and relieve roadway congestion. In addition, the proposed Program will assist the region in reducing its greenhouse gas emissions.

The Air District has identified the following goals of the Program, listed below in order of importance:

1. Improve air quality
2. Reduce greenhouse gas emissions
3. Increase transit ridership
4. Reduce roadway congestion
5. Implement the 2010 Clean Air Plan control measures

Transportation is the single largest source of air pollution¹ and greenhouse gas emissions² in the Bay Area. On average, in the Bay Area, cars, buses, and other commercial vehicles travel about 149 million miles a

¹ BAAQMD, 2011. Base Year 2008 Bay Area Emissions Inventory Summary Report. Available for download from <http://www.baaqmd.gov/Divisions/Planning-and-Research/Emission-Inventory.aspx>

² BAAQMD, 2010. Source Inventory of Bay Area Greenhouse Gas Emissions, Base Year 2007. Accessed March, 2013. Available for download from http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Emission%20Inventory/regionalinventory2007_2_10.ashx

day.³ Of the trips made by Bay Area residents, approximately 30% are for work with an average one-way commute distance for the region of about 13 miles.⁴ While commute trips make up a little over one-quarter of total person trips, they tend to be longer distance trips and comprise the majority of peak hour trips when traffic congestion is worse.⁵ Furthermore, US Census data shows that 68% of commuters traveling to work drove alone, compared to 10% taking public transportation.⁶ The number of vehicles traveling along the region’s freeway and local roadway networks fluctuate with the time of day, commonly known as “the rush hour”, peaking from 6am to 10am in the morning and 3pm to 7pm in the afternoon. According to the most recent traffic modeling conducted for the Bay Area regional transportation plan, the evening commute is expected to grow beyond 10,000,000 vehicle miles traveled per hour by 2040 (see Final MTC Technical Supplementary Report: Predicted Travel Responses, at page 58). As illustrated in Tables 1 and 2, the number of commuters in San Francisco and Santa Clara counties is expected to continually increase in response to projected growth in Bay Area population and employment.

Table 1: Total Commuters to San Francisco, by Direction of In-Commute⁷

	1990	2000	2010	2020	2030
San Francisco Residents	299,900	321,900	328,600	362,00	402,800
Golden Gate Corridor	42,100	39,200	49,600	43,100	36,800
Bay Bridge Corridor	121,800	137,600	169,300	199,700	218,600
Peninsula Corridor	87,000	80,600	81,100	95,400	101,700
TOTAL, to San Francisco	550,800	579,300	628,600	700,200	759,900

Source: MTC, 2004. Commuter forecasts for the San Francisco Bay Area, data summary, at page 8.

³ MTC, 2013. Travel Demand Forecasts from Plan Bay Area 2040 Public Draft Environmental Impact Report prepared for Bay Area RTP/SCS, Transportation Analysis at page 2.1-13, see also Table 2.1-17 *Daily Vehicle Miles of Travel Per Capita (2010-2040)*. Available at http://onebayarea.org/pdf/Draft_EIR_Chapters/2.1_Transportation.pdf

⁴ MTC, 2013. Travel Demand Forecasts from Plan Bay Area 2040 Public Draft Environmental Impact Report prepared for Bay Area RTP/SCS, at page 2.1-14. Available at http://onebayarea.org/pdf/Draft_EIR_Chapters/2.1_Transportation.pdf

⁵ MTC, 2013. Final Technical Supplementary Report: Summary of Predicted Traveler Responses. Accessed July, 2013. Available at http://onebayarea.org/pdf/final_supplemental_reports/FINAL_PBA_Predicted_Traveler_Responses.pdf

⁶ Bay Area Census. Selected Census data from the San Francisco Bay Area, 2006 to 2010 ACS. Provided by the Metropolitan Transportation Commission and Association of Bay Area Governments. Accessed March, 2013. Available at <http://www.bayareacensus.ca.gov/bayarea.htm>

⁷ MTC, 2004. Commuter Forecasts for the San Francisco Bay Area 1990-2030 Based on ABAG Projections 2003 and Census 2000 Data Summary. Available for download from http://www.mtc.ca.gov/maps_and_data/datamart/stats/Commuter_Forecasts_Data_Summary_May2004.pdf

Table 2: Total Commuters to Santa Clara County, by Direction of In-Commute⁸

	1990	2000	2010	2020	2030
Santa Clara County Residents	710,600	727,900	762,400	932,300	1,031,200
Peninsula Corridor	53,000	73,600	83,100	80,200	79,800
Monterey Bay	23,800	35,400	53,500	54,100	64,500
East Bay	60,300	81,900	108,200	109,500	116,900
San Joaquin Valley	9,200	16,500	30,400	28,900	31,300
TOTAL, to Santa Clara	550,800	935,200	1,037,600	1,205,00	1,323,600

Source: MTC, 2004. Commuter forecasts for the San Francisco Bay Area, data summary, at page 9.

Furthermore, a recent study using U.S. Census data was conducted to better understand commuter travel patterns and distances for metropolitan areas in the United States.⁹ Two Bay Area metropolitan statistical areas (San Francisco-Oakland-Fremont and San Jose-Sunnyvale-Santa Clara) were found to have the nation’s highest percent of “mega commuters”, defined as traveling 90 or more minutes and 50 or more miles to work, one-way. Thus, reducing commuter vehicle trips and encouraging shifts to other forms of commute mode can have a substantial benefit of improving air quality and reducing GHG emissions as well as traffic congestion.

⁸ MTC, 2004. Commuter Forecasts for the San Francisco Bay Area 1990-2030 Based on ABAG Projections 2003 and Census 2000 Data Summary. Available for download from http://www.mtc.ca.gov/maps_and_data/datamart/stats/Commuter_Forecasts_Data_Summary_May2004.pdf

⁹ Fields, Alison, Ph.D & Rapino, Melanie, Ph.D. “Mega Commuters in the U.S., Time and Distance in Defining the Long Commute using the American Community Survey. Working Paper 2013.

Chapter 3

CALIFORNIA ENVIRONMENTAL QUALITY ACT

General Information

Under the California Environmental Quality Act (CEQA), a public agency that seeks to carry out or approve any discretionary project (i.e. any activity that requires the exercise of agency judgment or deliberation and foreseeably may cause physical damage to the environment) must first assess the project's potential environmental effects (Public Resources Code §§21065, 21080(a), 21100, 21151; and State CEQA Guidelines §15357). In general, a CEQA document contains information that informs a public agency's decision-makers by identifying possible adverse effects to the environment caused by a project, developing ways to avoid or minimize a project's potentially significant adverse environmental effects, and describing reasonable alternatives that will still achieve the project's primary goals. A public agency's decision-making body must consider this information and weigh environmental consequences to the project's objectives prior to approval.

Air District staff finds that the proposed Program is defined as a "project" under CEQA and is thus required to undertake the environmental review process (PRC §21000 et seq.). A typical first step is to prepare an "initial study" that examines numerous environmental areas (see Appendix G: Environmental Checklist Form of the State CEQA Guidelines). As explained above, the ultimate outcome of the CEQA process is intended to inform the Air District's governing Board, other public agencies, and interested parties of possible adverse environmental impacts (directly or indirectly) that could result from implementing the Program before it is approved.

The Air District, acting as the lead agency, has prepared an initial study pursuant to State CEQA Guidelines (§15063). The purpose of an initial study is to provide information to be used as the basis for deciding whether to prepare a negative declaration or an environmental impact report and provide the factual basis supporting that decision. The initial study also provides information about the proposed project to other public agencies and interested parties prior to the release of any draft environmental documents. An "environmental checklist" has been included that was used to determine if the Program may have potential adverse effects on the environment.

Consistent with CEQA, the Air District did not identify any environmental area that may be adversely affected by the proposed Program. Accordingly, a negative declaration has been prepared for public review and comment ((PRC §§21064, 21080(c), State CEQA Guidelines §§15063(b)(2); 15064(f)(3); 15070 et seq.). Written comments on the scope of the environmental analysis that are submitted during the 30-day public review period will be considered by District staff. Questions and comments on the initial study or negative declaration should be directed to the Air District staff contact listed below.

District Staff Contact:

Ian Peterson, Environmental Planner II
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
ipeterson@baaqmd.gov
(415) 749-4783

All reference materials are available for review at the Air District's office listed directly above.

Setting

The San Francisco Bay Area is generally characterized by complex terrain, consisting of coastal mountain ranges, inland valleys, and bays. The California Coastal Range splits resulting in a western coast gap, Golden Gate, and an eastern coast gap, Carquinez Strait, and opens access to the greater Central Valley of California. The region encompasses the major cities and metropolitan areas of San Francisco, Oakland, and San José, along with smaller urban and rural areas. The nine-county area contains many cities, towns, airports, and associated regional, state, and national parks, connected by a network of roads, highways, railroads, bridges, tunnels, and commuter rail. The combined urban area of San José and San Francisco is the largest in Northern California, the second largest in the state, and the 55th largest urban area in the world. The region is bound by the Pacific Ocean to the west; Mendocino and Lake Counties to the north; Yolo and Sacramento to the east; and Santa Cruz and San Benito to the south.

The proposed Program would affect certain employers within the Air District's jurisdiction, an area of approximately 5,600 square miles that encompasses seven Bay Area counties and southwestern Solano County and southern Sonoma County. The Bay Area is home to approximately 7.15 million people¹⁰ and has an extensive transportation network that includes interstate and state freeways, county expressways, local streets and roads, bike paths, sidewalks, and a wide assortment of transit technologies (heavy rail, light rail, intercity rail, buses, trolleys and ferries). Transportation systems located within the Bay Area include railroads, airports, waterways, and highways. The Port of Oakland and three international airports in the area serve as hubs for commerce and transportation. The transportation infrastructure for vehicles and trucks in the Bay Area ranges from single lane roadways to multilane interstate highways. The Bay Area contains over 1,300 directional miles of highways and over 33,000 directional miles of arterial and local streets. In addition, there are over 11,500 transit route miles managed by 22 transit agencies including rapid rail, light rail, commuter, diesel and electric buses, cable cars, and ferries. The Bay Area also has an extensive local system of bicycle routes and pedestrian paths and sidewalks. This includes 700 miles of Class I, 2,000 miles of Class II, and 1,300 miles of Class III bicycle facilities.

The region is also served by numerous interstate and U.S. freeways. On the west side of San Francisco Bay, Interstate 280 and U.S. 101 run north-south. U.S. 101 continues north of San Francisco into Marin County. Interstates 880 and 660 run north-south on the east side of the Bay. Interstate 80 starts in San Francisco, crosses the Bay Bridge, and runs northeast toward Sacramento. Interstate 80 is a six-lane north-south freeway which connects Contra Costa County to Solano County via the Carquinez Bridge. State Routes 29 and 84 (both highways that allow at-grade crossings in certain parts of the region) become freeways that run east-west, and cross the Bay. Interstate 580 starts in San Rafael, crosses the Richmond-San Rafael Bridge, joins with Interstate 80, runs through Oakland, and then runs eastward toward Livermore. From the Benicia-Martinez Bridge, Interstate 680 extends north to Interstate 80 in Cordelia. Caltrans constructed a second freeway bridge adjacent and east of the existing Benicia-Martinez Bridge. The new bridge consists of five northbound traffic lanes. The existing bridge was re-striped to accommodate four lanes for southbound traffic. Interstate 780 is a four lane, east-west freeway extending from the Benicia-Martinez Bridge west to I-80 in Vallejo.

¹⁰ US Census, 2010

Environmental Factors Potentially Affected

The environmental factors checked below would potentially be affected by this Project (i.e., the project would involve one impact that is a “Potentially Significant Impact”), as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture/Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gases | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

Determination

On the basis of this initial evaluation:

- I find the proposed project **COULD NOT** have a significant effect on the environment, and that a **NEGATIVE DECLARATION** will be prepared.

- I find that although the proposed project could have a significant effect on the environment, there will not be significant effects in this case because revisions to the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have an impact on the environment that is "potentially significant" or "potentially significant unless mitigated" but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier **ENVIRONMENTAL IMPACT REPORT** or **NEGATIVE DECLARATION**, pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier **ENVIRONMENTAL IMPACT REPORT** or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

Printed Name

For

Evaluation of Environmental Impacts

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declarations: Less than Significant with Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact to a “Less than Significant Impact”. The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analysis”, as described in (5) below, may be conferenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, Program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used: Identify and state where they are available for review.
 - b) Impacts Adequately Addressed: Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures: For effects that are “Less than Significant with Mitigation Measures Incorporated”, describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions of the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the state is substantiated.

- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) The checklist is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significant criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significant

Environmental Checklist and Discussion

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less-than-Significant Impact	No Impact
I. AESTHETICS.				
Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Visual resources are generally protected by the City and/or County General Plans through land use and zoning requirements.

Impacts

I. a) – d): The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. There are no provisions under the proposed Program that require the construction or modification of any buildings or structures, alteration or addition of lighting. The proposed Program would also not result in fundamentally changing any of the physical components of the transportation network in a way that would substantially degrade the visual character of scenic vistas or a street or neighborhood. Thus, the proposed Program has no potential to affect scenic vistas, substantially degrade the existing visual quality of any site and its surroundings, or create new sources of substantial light or glare which would adversely affect day or nighttime views of an area.

Based upon the above considerations, no significant adverse aesthetic impacts are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
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II. AGRICULTURE AND FORESTRY RESOURCES.

In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

- | | | | | | |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) | Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) | Result in the loss of forest land or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) | Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide a commuter benefit to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Agricultural and forest resources are generally protected by city and/or county general plans, community plans through land use and zoning requirements, as well as any applicable specific plans, ordinances, local coastal plans, and redevelopment plans.

Impacts

II. a) - e): The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. Consequently, there is no building associated with the proposed Program that would convert farmland to other uses, would not conflict with zoning for agricultural uses or conflict with a Williamson Act contract, conflict with zoning for timberland, would not conflict with existing zoning or rezoning of forestland or timberland zoned for timberland production, would not result in the loss of forest land or conversion of forest land to non-forest land, and would not result in conversion of farmland or forest land to another use. Further, there are no provisions in the proposed Program that would affect land use plans, policies, zoning, or regulations. Land use and other planning considerations are determined by local governments and no land use or planning requirements will be altered by the proposed Program.

Based upon the above considerations, no significant adverse impacts to agricultural or forestry resources are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
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III. AIR QUALITY:

When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a non-attainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Diminish an existing air quality rule or future compliance requirement resulting in a significant increase in air pollutant(s)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide a commuter benefit to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

It is the responsibility of the Air District to ensure that state and federal ambient air quality standards are achieved and maintained in its geographical jurisdiction. Health based air quality standards have been established by California and the federal government for the following criteria air pollutants: ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), PM₁₀, PM_{2.5}, sulfur dioxide (SO₂) and lead. These standards were established to protect sensitive receptors with a margin of safety from adverse health impacts due to exposure to air pollution. The California standards are more stringent than the federal standards. California has also established standards for sulfate, visibility, hydrogen sulfide, and vinyl chloride. The state and

national ambient air quality standards for each of these pollutants and their effects on health are summarized in Table 3 below. The Air District monitored levels of various criteria pollutants at 24 monitoring stations in 2012.

Table 3: State and Federal Ambient Air Quality Standards

AIR POLLUTANT	STATE STANDARD CONCENTRATION/ AVERAGING TIME	FEDERAL PRIMARY STANDARD CONCENTRATION/ AVERAGING TIME	MOST RELEVANT EFFECTS
Ozone	0.09 ppm, 1-hr. avg. > 0.070 ppm, 8-hr	0.075 ppm, 8-hr avg. >	(a) Short-term exposures: (1) Pulmonary function decrements and localized lung edema in humans and animals (2) Risk to public health implied by alterations in pulmonary morphology and host defense in animals; (b) Long-term exposures: Risk to public health implied by altered connective tissue metabolism and altered pulmonary morphology in animals after long-term exposures and pulmonary function decrements in chronically exposed humans; (c) Vegetation damage; (d) Property damage
Carbon Monoxide	9.0 ppm, 8-hr avg. > 20 ppm, 1-hr avg. >	9 ppm, 8-hr avg.> 35 ppm, 1-hr avg.>	(a) Aggravation of angina pectoris and other aspects of coronary heart disease; (b) Decreased exercise tolerance in persons with peripheral vascular disease and lung disease; (c) Impairment of central nervous system functions; (d) Possible increased risk to fetuses
Nitrogen Dioxide	0.03 ppm, annual avg.> 0.18 ppm, 1-hr avg. >	0.053 ppm, ann. avg.> 0.10 ppm, 1-hr avg.>	(a) Potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; (b) Risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; (c) Contribution to atmospheric discoloration
Sulfur Dioxide	0.04 ppm, 24-hr avg.> 0.25 ppm, 1-hr. avg. >	0.5 ppm, 3-hr. avg.> 0.075 ppm, 1-hr avg.>	(a) Bronchoconstriction accompanied by symptoms which may include wheezing, shortness of breath and chest tightness, during exercise or physical activity in persons with asthma
Suspended Particulate Matter (PM ₁₀)	20 µg/m ³ , annual arithmetic mean > 50 µg/m ³ , 24-hr average>	150 µg/m ³ , 24-hr avg.>	(a) Excess deaths from short-term exposures and exacerbation of symptoms in sensitive patients with respiratory disease; (b) Excess seasonal declines in pulmonary function, especially in children
Suspended Particulate Matter (PM _{2.5})	12 µg/m ³ , annual arithmetic mean>	12 µg/m ³ , annual arithmetic mean> 35 µg/m ³ , 24-hour average>	Decreased lung function from exposures and exacerbation of symptoms in sensitive patients with respiratory disease; elderly; children.
Sulfates	25 µg/m ³ , 24-hr avg. >=		(a) Decrease in ventilatory function; (b) Aggravation of asthmatic symptoms; (c) Aggravation of cardio-pulmonary disease; (d) Vegetation damage; (e) Degradation of visibility; (f) Property damage
Lead	1.5 µg/m ³ , 30-day avg. >=	1.5 µg/m ³ , calendar quarter> 0.15 µg/m ³ , 3-mo. avg. >	(a) Increased body burden; (b) Impairment of blood formation and nerve conduction
Visibility-Reducing Particles	In sufficient amount to give an extinction coefficient >0.23 inverse kilometers (visual range to less than 10 miles) with relative humidity less than 70%, 8-hour average (10am – 6pm PST)		Nephelometry and AISI Tape Sampler; instrumental measurement on days when relative humidity is less than 70 percent

Source: BAAQMD, 2013.

At the federal level, the Clean Air Act (CAA) Amendments of 1990 give the U.S. EPA additional authority to require states to reduce emissions of ozone precursors and particulate matter in nonattainment areas. The amendments set attainment deadlines based on the severity of problems. At the state level, the California Air Resources Board has traditionally established state ambient air quality standards, maintained oversight authority in air quality planning, developed programs for reducing emissions from motor vehicles, developed air emission inventories, collected air quality and meteorological data, and approved state implementation plans. At a local level, California’s air districts, including the Air District, are responsible for overseeing stationary source emissions, approving permits, maintaining emission inventories, maintaining air quality

stations, overseeing agricultural burning permits, and reviewing air quality-related sections of environmental documents required by CEQA. The Air District is governed by a 22-member Board of Directors composed of publicly-elected officials apportioned according to the population of the represented counties. The Board has the authority to develop and enforce regulations for the control of air pollution within its jurisdiction. The Air District is responsible for implementing emissions standards and other requirements of federal and state laws. It is also responsible for developing air quality planning documents required by both federal and state laws.

Impacts

III. a): The proposed Program will not obstruct the implementation of the Bay Area 2010 Clean Air Plan (CAP), which is required pursuant to state law. On the contrary, reducing commuter vehicle trips is one of several strategies that the CAP relies upon to reduce air pollution. For example, the CAP contains 17 transportation control measures (TCMs) among which include improving transit service; encourage walking, bicycling, and transit use; and supporting employer based trip reduction programs to reduce emissions and make progress towards attaining and maintaining state and federal ambient air quality standards for ozone and particulate matter in the Air District (see Air District 2010 Clean Air Plan, Transportation Control Measures (TCM) TCM A-1, TCM A-2, TCM B-2, TCM C-1, TCM C-3, TCM D-1, and TCM D-2). TCM C-1 specifically proposes the concept of developing a regional commuter benefits Program.

Based upon the above considerations, implementation of the proposed Program will not conflict or obstruct implementation of the Bay Area 2010 Clean Air Plan.

III. b): The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. The Program is not expected to increase transit ridership such that any transit agency would need to purchase new buses or trains or increase the frequency of bus or train service. Existing capacity within transit agencies is expected to be able to handle any increase in ridership due to the Program. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite. Implementing the Program is expected to reduce daily commute VMT and thereby reduce air pollutant emissions. Emissions reduction estimated in Table 4 below are based on an analysis conducted for the Program’s estimated region-wide reduction in VMT in 2015.

Table 4: Region-wide Emission Reductions (2015)

Pollutants	ROG	NOx	PM2.5	PM10	CO2
MT/year	-2.8	-5.9	-0.1	-0.1	-12,714

Source: ICF, 2013. Commuter Benefits Analysis – Revised for SB 1339, Table 1: 2015 Region-wide changes in SOV trips, VMT, and emissions as a result of the PROGRAM, at page 4

In addition, the proposed Program is also expected to reduce emissions of ammonia, a precursor to particulate matter, and the following air toxics by about 0.01 tons per day: benzene, 1,3 butadiene, formaldehyde, and acetaldehyde.

Based upon the above considerations, implementation of the proposed Program will not violate any air quality standard or contribute to an existing or projected air quality violation.

III. c): As explained above, the overall effect of the proposed Program is a shift from single occupancy vehicles to travel modes that do not generate new vehicle trips, and therefore, result in emission reductions of ozone precursors (NO_x and ROG), particulate matter, and toxic air contaminants. Thus, the cumulative air quality impacts of the proposed Program are expected to be beneficial.

III. d): The proposed Program is not expected to directly or indirectly expose sensitive receptors to substantial pollutant concentrations. As described above in response to question III b., overall emissions are expected to decrease in the Bay Area as the primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. The Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area to meet any increased demand for transit service. In addition, there are no provisions under the proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. Rather, implementation of the proposed Program is expected to reduce vehicle miles traveled (VMT). Thus, the proposed Program will result in a reduction of emissions by eliminating vehicle trips that would otherwise occur throughout the SFBAAB.

Based upon the above considerations, implementation of the proposed Program will not expose sensitive receptors to substantial air pollutant concentrations.

III. e): Any potential odors associated with the Program could potentially be related to diesel exhaust emissions from transit buses or passenger trains. Since the Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area to meet any increased demand for transit service, the Program is not expected to increase diesel emissions and therefore odors within the Bay Area. The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. Implementation of the proposed Program is expected to reduce vehicle miles traveled (VMT). Thus, the proposed Program will result in a reduction of emissions by eliminating vehicle trips throughout the SFBAAB.

Based upon the above considerations, implementation of the Program will not create objectionable odors affecting a substantial number of people.

III. f): The Air District has adopted numerous rules and regulations to reduce air pollution from stationary sources since 1955. Implementing the Program will not diminish or inhibit any of these existing rules and regulations and will not preclude future rules or regulations directed toward stationary sources. As discussed above, the proposed Program will implement transportation control measures identified in the Bay Area 2010 Clean Air Plan.

Based upon the above considerations, implementation of the proposed Program not will diminish an existing rule or regulation or future compliance requirement resulting in a significant increase in air pollutants.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES. Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflicting with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

The areas affected by the proposed rule amendment are located in the Bay Area-Delta Bioregion (as defined by the State's Natural Communities Conservation Program). This Bioregion is comprised of a variety of natural communities, which range from salt marshes to chaparral to oak woodland. Biological resources are generally protected by the City and/or County General Plans through land use and zoning requirements which minimize or prohibit development in biologically sensitive areas. Biological resources are also protected by the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service and National Marine Fisheries Service oversee the federal Endangered Species Act. Development permits may be required from one or both of these agencies if development would impact rare or endangered species. The California Department of Fish and Wildlife administers the California Endangered Species Act which prohibits impacting endangered and threatened species. The U.S. Army Corps of Engineers and the U.S. EPA regulate the discharge of dredge or fill material into waters of the United States, including wetlands.

Impacts

IV. a) - e): The Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area to meet any increased demand for transit service resulting from the Program. There are also no provisions under proposed Program that require the construction or modification of any buildings or structures, or provisions that would affect land use plans, policies, or regulations. Thus, the proposed Program would not affect in any way habitat conservation or natural community conservation plans, agricultural resource or operations, and would not create divisions in any existing communities.

Based upon the above considerations, no significant adverse biological impacts are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside a formal cemetery?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Cultural resources are defined as buildings, sites, structures, or objects which might have historical architectural, archaeological, cultural, or scientific importance. The Carquinez Strait represents the entry point for the Sacramento and San Joaquin Rivers into the San Francisco Bay. This locality lies within the San Francisco Bay and the west end of the Central Valley archaeological regions, both of which contain a rich array of prehistoric and historical cultural resources. The areas surrounding the Carquinez Strait and Suisun Bay have been occupied for millennia given their abundant combination of littoral and oak woodland resources.

The State CEQA Guidelines define a significant cultural resource as a “resource listed or eligible for listing on the California Register of Historical Resources” (Public Resources Code Section 5024.1). A project would have a significant impact if it would cause a substantial adverse change in the significance of a historical resource (State CEQA Guidelines Section 15064.5(b)). A substantial adverse change in the significance of a historical resource would result from an action that would demolish or adversely alter the physical characteristics of the historical resource that convey its historical significance and that qualify the resource for inclusion in the California Register of Historical Resources or a local register or survey that meets the requirements of Public Resources Code Sections 50020.1(k) and 5024.1(g).

Impacts

V. a) - d): There are no requirements as a result of the proposed Program that require the construction or modification of any buildings or structures. Thus, the proposed Program has no potential to cause a substantial adverse change in the significance of a historical resource, an archaeological site, directly or indirectly destroy a unique paleontological resource, or disturb any human remains.

Based upon the above considerations, no significant adverse impacts to cultural resources are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS.				
Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Strong seismic ground-shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in onsite or offsite landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

The San Francisco Bay Area is a seismically active region, which is situated on a plate boundary marked by the San Andreas Fault System. Several northwest trending active and potentially active faults are included with this fault system. Under the Alquist-Priolo Earthquake Fault Zoning Act, Earthquake Fault Zones were

established by the California Division of Mines and Geology along “active” faults, or faults along which surface rupture occurred in Holocene time (the last 11,000 years). In the Bay area, these faults include the San Andreas, Hayward, Rodgers Creek-Healdsburg, Concord-Green Valley, Greenville-Marsh Creek, Seal Cove/San Gregorio and West Napa faults. Other smaller faults in the region classified as potentially active include the Southampton and Franklin faults. Ground movement intensity during an earthquake can vary depending on the overall magnitude, distance to the fault, focus of earthquake energy, and type of geological material. Areas that are underlain by bedrock tend to experience less ground shaking than those underlain by unconsolidated sediments such as artificial fill. Earthquake ground shaking may have secondary effects on certain foundation materials, including liquefaction, seismically induced settlement, and lateral spreading.

Regional basement rocks consist of the highly deformed Great Valley Sequence, which include massive beds of sandstone inter-fingered with siltstone and shale. Unconsolidated alluvial deposits, artificial fill, and estuarine deposits, (including bay mud) underlie the low-lying region along the margins of the Carquinez Straight and Suisun Bay. The estuarine sediments found along the shorelines of Solano County are soft, water-saturated mud, peat and loose sands. The organic, soft, clay-rich sediments along the San Francisco and San Pablo Bays are referred to locally as Bay Mud and can present a variety of engineering challenges due to inherent low strength, compressibility and saturated conditions. Landslides in the region occur in weak, easily weathered bedrock on relatively steep slopes.

Construction is regulated by local city or county building codes that provide requirements for construction, grading, excavations, use of fill, and foundation work including type of materials, design, procedures, etc., which are intended to limit the probability of occurrence and the severity of consequences from geological hazards. Necessary permits, plan checks, and inspections are generally required. City or county general plans prepared in California include a Seismic Safety Element. The Element serves primarily to identify seismic hazards and their location in order that they may be taken into account in the planning of future development. The California Building Code is the principle mechanism for protection against and relief from the danger of earthquakes and related events.

In addition, the Seismic Hazard Zone Mapping Act (Public Resources Code §§2690 – 2699.6) was passed by the California legislature in 1990 following the Loma Prieta earthquake. The Act required that the California Division of Mines and Geology (DMG) develop maps that identify the areas of the state that require site specific investigation for earthquake-triggered landslides and/or potential liquefaction prior to permitting most urban developments. The act directs cities, counties, and state agencies to use the maps in their land use planning and permitting processes.

Local governments are responsible for implementing the requirements of the Seismic Hazards Mapping Act. The maps and guidelines are tools for local governments to use in establishing their land use management policies and in developing ordinances and review procedures that will reduce losses from ground failure during future earthquakes.

Impacts

VI. a), b): There are no provisions under the proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. Thus, the proposed Program has no potential to expose people or structures to earthquake faults, ground-shaking, liquefaction, landslides, soil erosion, or loss of topsoil. In addition, the proposed Program would not expose people or property to other

geological hazards or other natural hazards because the primary effect of the Program is a reduction in air pollutant emissions from vehicle trips.

VI. c, d): There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. Thus, there would no potential of building on a geological unit or soil that is unstable or on expansive soil.

VI. e): The proposed Program does not include or affect in any way septic tanks or alternative water disposal systems and does not generate any wastewater.

Based upon the above considerations, no significant adverse impacts to geology or soils are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
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VII. GREENHOUSE GAS EMISSIONS. Would the project:

- | | | | | | |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) | Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) | Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide a commuter benefit to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Global climate change refers to changes in average climatic conditions on the earth as a whole, including temperature, wind patterns, precipitation and storms. Global warming, a related concept, is the observed increase in the average temperature of the earth’s surface and atmosphere. One identified cause of global warming is an increase of greenhouse gases (GHGs) in the atmosphere. The six major GHGs identified by the Kyoto Protocol are (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), haloalkanes (HFCs), and perfluorocarbons (PFCs). The GHGs absorb long wave radiant energy reflected by the earth, which warms the atmosphere. GHGs also radiate long wave radiation both upward to space and back down toward the surface of the earth. The downward part of this long wave radiation absorbed by the atmosphere is known as the "greenhouse effect." Some studies indicate that the potential effects of global climate change may include rising surface temperatures, loss in snow pack, sea level rise, more extreme heat days per year, and more drought years.

Events and activities, such as the industrial revolution and the increased combustion of fossil fuels (e.g. gasoline, diesel, coal, etc.), are believed to have contributed to the increase in atmospheric levels of GHGs. Emission inventories typically focus on GHG emissions due to human activities only, and compile data to estimate emissions from industrial, commercial, transportation, domestic, forestry, and agriculture activities. For example, approximately 37% of California’s estimated GHG emissions resulted from the transportation sector in 2011 and 27% of the state total were attributed to passenger vehicles.¹¹ The GHG emission

¹¹ CARB, 2013. California Greenhouse Gas Inventory for 2000-2011 – By Category as Defined in the 2008 Scoping Plan. Accessed October, 2013. Available at <http://www.arb.ca.gov/cc/inventory/data/data.htm>

inventory prepared by the BAAQMD in Table 5 below reports direct emissions generated from sources within the Bay Area.

Table 5: Annual Bay Area Greenhouse Gas Emission Inventory Projections (metric tons of CO₂-equivalent)

SOURCE CATEGORY	Bay Area						Year 2007 (Metric Tons / Year)	
	CO ₂	CH ₄	N ₂ O	PFC/HFC	SF ₆	Total GHG CO ₂ -Equivalent	Biogenic CO ₂	
INDUSTRIAL/ COMMERCIAL								
<i>Oil Refineries</i>								
Refining Processes	3,445,064	79	--	--	--	3,446,782	--	
Refinery Make Gas Combustion	4,772,971	97	6	--	--	4,778,959	--	
Natural Gas and Other Gases Combustion	4,880,288	267	18	--	--	4,871,495	--	
Liquid Fuel Combustion	89,450	1	1	--	--	89,780	--	
Solid Fuel Combustion	1,000,216	29	6	--	--	1,002,637	--	
<i>Waste Management</i>								
Landfill Combustion Sources	--	1,241	1	--	--	26,455	584,565	
Landfill Fugitive Sources	--	56,747	3	--	--	1,192,596	154,411	
Composting/POTWs	--	2,773	965	--	--	357,224	--	
<i>Other Industrial/ Commercial</i>								
Cement Plants	841,350	13	3	--	--	842,475	--	
Commercial Cooking	134,612	--	--	--	--	134,612	--	
ODS Substitutes/Nat. Gas Distrib./Other	--	16,356	--	2,184	0.13	4,390,999	21	
Reciprocating Engines	550,270	1,989	1	--	--	593,584	234,013	
Turbines	354,897	78	1	--	--	356,683	66,141	
Natural Gas- Major Combustion Sources	2,400,044	51	3	--	--	2,402,179	--	
Natural Gas- Minor Combustion Sources	8,979,100	172	165	--	--	9,033,745	--	
Coke Coal	989,442	28	6	--	--	991,823	--	
Other Fuels Combustion	349,171	132	2	--	--	352,485	85,346	
Subtotal	28,766,652	80,052	1,181	2,184	0.13	34,862,465	1,124,497	
RESIDENTIAL FUEL USAGE								
Natural Gas	6,456,173	124	118	--	--	6,495,464	--	
LPgas/Liquid Fuel	166,508	3	11	--	--	169,911	--	
Solid Fuel	--	6,242	67	--	--	151,742	628,550	
Subtotal	6,622,682	6,369	196	--	--	6,817,118	628,550	
ELECTRICITY/ CO-GENERATION								
Co-Generation	5,292,826	1,261	4	--	--	5,320,398	89,512	
Electricity Generation	2,730,973	163	1	--	1.18	2,762,968	3,525	
Electricity Imports	7,102,311	59	33	--	--	7,113,680	--	
Subtotal	15,126,111	1,483	37	--	1.18	15,197,047	93,037	
OFF-ROAD EQUIPMENT								
Lawn and Garden Equipment	105,742	192	77	--	--	133,803	--	
Construction Equipment	1,785,078	289	11	--	--	1,794,433	--	
Industrial Equipment	729,035	433	41	--	--	750,852	--	
Light Commercial Equipment	226,118	111	42	--	--	241,375	--	
Subtotal	2,845,974	1,025	171	--	--	2,920,462	--	
TRANSPORTATION								
<i>Off-Road</i>								
Locomotives	88,092	5	35	--	--	99,152	--	
Ships	731,679	74	28	--	--	742,064	--	
Boats	509,165	252	168	--	--	566,451	--	
Commercial Aircraft	1,877,665	91	68	--	--	1,900,661	--	
General Aviation	231,066	46	8	--	--	234,642	--	
Military Aircraft	478,178	31	15	--	--	483,454	--	
<i>On-Road</i>								
Passenger Cars/Trucks up to 10,000 lbs	26,070,815	2,783	1,480	--	--	26,587,907	--	
Medium/Heavy Duty Trucks > 10,000 lbs	3,232,949	181	208	--	--	3,301,335	--	
Urban, School and Other Buses	722,698	21	192	--	--	782,755	--	
Motor-Homes and Motorcycles	156,636	147	42	--	--	172,846	--	
Subtotal	34,098,941	3,629	2,246	--	--	34,871,276	--	
AGRICULTURE/ FARMING								
Agricultural Equipment	183,929	34	2	--	--	185,364	--	
Animal Waste	--	25,860	254	--	--	621,761	--	
Soil Management	15,954	--	899	--	--	294,758	43,110	
Biomass Burning	--	97	8	--	--	4,363	3,145	
Subtotal	199,883	25,991	1,163	--	--	1,106,246	46,255	
GRAND TOTAL EMISSIONS	87,660,281	118,549	4,993	2,184	1.3	95,774,635	1,892,340	

Source: BAAQMD, 2010. Source Inventory of Bay Area Greenhouse Gas Emissions. See Table K, at page 19

Impacts

VII. a): The proposed Program would establish requirements for all employers above a minimum threshold size to provide commuter benefits to their employees. The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. The transportation sector is the second largest source of greenhouse gas emissions in the Bay Area. On average, in the Bay Area, cars, buses, and other commercial vehicles travel about 149 million miles a day.¹² Of the trips made by Bay Area residents, about 30% are for work with an average one-way commute distance for the region of about 13 miles.¹³ Furthermore, it is reported from 2006 to 2010 that 68% of commuters traveling to work drove alone, compared to 10% taking public transportation.¹⁴ While commute trips make up a little over one-quarter of total person trips, they tend to be longer distance trips and comprise the majority of peak hour trips when traffic congestion is worse.¹⁵ The number of vehicles traveling along the region’s freeway and local roadway networks fluctuate with the time of day, commonly known as “the rush hour”, peaking from 6am to 10am in the morning and 3pm to 7pm in the afternoon. For example, the evening commute is expected to grow beyond 10,000,000 vehicle miles traveled per hour by 2040 (MTC, Summary of Predicted Traveler Responses 2013).

Several Bay Area cities were found to have the top two highest number of “mega commuters” in the nation where a commuter travels over 50 miles to work, one way.¹⁶ Furthermore, forms of public transportation (transit, commuter, and intercity rail, and buses) have relatively lower GHG emission per passenger-mile traveled (PMT) whereas light-duty trucks and passenger cars have the highest (see Transportation’s Role in Reducing U.S. Greenhouse Gas Emissions. Vol. 1, at Figure 2.11, page 2-19).¹⁷ The report examined GHG estimates for various transportation modes, specifically including Bay Area Rapid Transit (BART), Caltrain, and the San Francisco Municipal Transit Agency (MUNI). For example, the approximate operational GHG emissions for a typical sedan is 230 g/CO₂e per passenger mile of travel (PMT) whereas Bay Area rail transit systems are comparatively lower at 64, 74, and 69 g/CO₂e/PMT, respectively (see Table 2.2 Life-Cycle GHG Estimates for Various Transportation Modes, at page 2-25). An analysis of the Program prepared for the Air District on the effects of potential mode shift show a reduction in GHG emissions can be reasonably expected when the Program is implemented. According to this analysis, the Program is expected

¹² MTC, 2013. Travel Demand Forecasts from Plan Bay Area 2040 Public Draft Environmental Impact Report prepared for Bay Area RTP/SCS, Transportation Analysis at page 2.1-13, see also Table 2.1-17 *Daily Vehicle Miles of Travel Per Capita (2010-2040)*. Accessed November, 2013. Available at http://onebayarea.org/pdf/Draft_EIR_Chapters/2.1_Transportation.pdf

¹³ MTC, 2013. Travel Demand Forecasts from Draft Environmental Impact Report prepared for Bay Area RTP/SCS, at page 2.1-14. Accessed November, 2013. Available at <http://onebayarea.org/regional-initiatives/plan-bay-area/plan-elements/environmental-impact-report.html>

¹⁴ Bay Area Census. Selected Census data from the San Francisco Bay Area, 2006 to 2010 ACS. Provided by the Metropolitan Transportation Commission and Association of Bay Area Governments. Accessed March, 2013. Available at <http://www.bayareacensus.ca.gov/bayarea.htm>

¹⁵ MTC, 2013. Final Technical Supplementary Report: Summary of Predicted Traveler Responses. Accessed July, 2013. Available at http://onebayarea.org/pdf/final_supplemental_reports/FINAL_PBA_Predicted_Traveler_Responses.pdf

¹⁶ Fields, Alison, Ph.D & Rapino, Melanie, Ph.D. “Mega Commuters in the U.S., Time and Distance in Defining the Long Commute using the American Community Survey. Working Paper 2013

¹⁷ United States Department of Transportation, 2010. Transportation’s Role in Reducing U.S. Greenhouse Gas Emissions. Vol. 1: Synthesis Report. April 2010.

to reduce up to 12,714 metric tons of carbon dioxide per year in 2015 (ICF International 2013). Thus, reducing motor vehicle trips by encouraging shifts to alternative commute modes helps to reduce emissions of greenhouse gases.

VII. b): Implementation of the proposed Program would complement other plans, policies, and regulations that have been adopted for the purpose of reducing greenhouse gas emissions. This includes, but is not limited to: AB 32 (Chapter 488, Statutes of 2006, the California Global Warming Solutions Act of 2006) and SB 375 (Chapter 354, Statutes of 2008, the Sustainable Communities & Climate Protection Act of 2008), as well as helping local jurisdictions in the Bay Area with adopted plans for reducing greenhouse emissions meet their GHG reduction goals.

In 2008, the California Air Resources Board (CARB) adopted the AB 32 Scoping Plan. Pursuant to statute, CARB is in the process of updating the Scoping Plan which includes an emphasis on nurturing local and regional action to reduce GHG emissions through land use and transportation planning processes. The 2008 Scoping Plan contains a variety of actions that comprise the State's overall approach to addressing GHG emissions and confronting the issues of climate change. These actions include direct regulations, alternative compliance mechanisms, monetary and non-monetary incentives, voluntary actions, and market-based mechanisms such as the cap-and-trade system currently being implemented. Primary authority to implement regulations and Programs promulgated under AB 32 rests with CARB. Among these regulatory responsibilities, CARB views local governments as being essential partners in achieving California's goals to reduce GHGs (see Climate Change Scoping Plan: A framework for change (2008) "...[local governments] have broad influence and, in some cases, exclusive authority over activities that contribute to significant direct and indirect GHG emissions through their planning and permitting process, local Programs, and municipal operations." at page 26.) (See also "Regional Transportation-Related Greenhouse Gas Targets— "...supporting measures that should be considered in both the regional target-setting and [SCS] processes include the following:...Programs to reduce vehicle trips while preserving personal mobility, such as employee transit incentives, telework Programs, car sharing, parking policies, public education Programs and other strategies." at pages 48 to 49.)

The 2008 Scoping Plan encourages local governments to adopt a GHG emissions reduction goal consistent with the State's overarching goal of reducing statewide emissions to 1990 levels by 2020. Passenger vehicles are the largest single contributor of GHG emissions¹⁸ in California¹⁸ and in the Bay Area¹⁹ accounting for approximately 134.93 mmtCO₂e and 26.6 mmtCO₂e, respectively. State law (i.e. SB 375) provides a mechanism for local governments to address air pollution and GHG emissions from vehicles, known as a "Sustainable Communities Strategy" or SCS. Pursuant to SB 375, metropolitan planning organizations (MPOs) are required to develop a SCS as part of their regional transportation plans (RTPs). Together, the RTP/SCS must demonstrate how land use changes and other strategies can achieve regional targets for GHG emission reductions from transportation sources. Providing commuters with options and alternative modes of transportation are common strategies in RTP/SCSs already beginning to be implemented in regions throughout the State (e.g. see San Diego Association of Governments (SANDAG), 2050 Regional Transportation Plan at Chapter 8: Demand Management: Innovative Incentives for Taking the Path Less Traveled [trip reduction Programs for employers with 100+ employees; Commute employer outreach and

¹⁸ CARB, 2013. California Greenhouse Gas Inventory for 2000-2011 – By Category as Defined in the 2008 Scoping Plan. Accessed October, 2013. Available at <http://www.arb.ca.gov/cc/inventory/data/data.htm>

¹⁹ BAAQMD, 2010. Source Inventory of Bay Area Greenhouse Gas Emissions, Base Year 2007. Accessed March, 2013. Available at http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/Emission%20Inventory/regionalinventory2007_2_10.ashx

services Program; financial incentives and subsidies to encourage commuter carpool, vanpool, and transit ridership]; Sacramento Area Council of Governments (SACOG), Metropolitan Transportation Plan/Sustainable Communities Strategy 2035 at Chapter 2: Planning Process [recommendations for new performance measures, transportation: congestion, transit ridership, carpooling, bicycling and walking]; and Chapter 4: Summary of Budget & Investments [funding Program for financial incentives for taking alternative modes or telecommuting to work, vanpool subsidies]).

The Bay Area's RTP/SCS ("Plan Bay Area") was developed to meet the long-range transportation and housing needs of the Bay Area. Plan Bay Area proposes a land use distribution approach and transportation investment strategy that will work towards enhancing the region's transportation system which in turn can improve the economy and environment. Great care was also taken to gauge the effects of the plan on the region's low-income and minority populations. A separate equity analysis was conducted to identify "communities of concern" that considered five performance metrics: housing and transportation affordability, potential for displacement, healthy communities, access to jobs, and mobility for all system users. Several ranging scenarios were developed to assess how different projects and policies might affect the region's future. This included varying combinations of land use patterns and transportation investments that were evaluated together to see if they achieved, or fell short of, the plan's performance targets. Among them were ways to support equitable and sustainable development by maximizing the effectiveness of the regional transit network and reducing GHG emissions by providing convenient access to employment for people of all incomes. Coupled with transit access, connecting housing to job-rich areas, chiefly in the region's Priority Development Areas (PDAs), that already have an existing transit infrastructure translates into relieving dependency on vehicular travel, reductions in VMT and roadways congestion while providing more mobility options to low-income commuters. The proposed Program plays an integral role in helping the Plan achieve its GHG reduction mandates under SB 375 (7% by 2020; 15% by 2035) in addition to its many other related goals of meeting the transportation and housing demands of a growing, and aging, population (see *Investment Strategy 6: Protect Our Climate* "...we have to invest in technology advancements and provide incentives for travel options to help meet these emission targets", at page 84). Specifically, Plan Bay Area depends on the proposed Program to achieve GHG emission reductions as part of MTC's Climate Program Initiatives.

There are also several examples of local governments in the Bay Area implementing transportation demand measures that target commuter trips. For example, as part of Marin County's 2006 Greenhouse Gas Reduction Program, county employees are encouraged to take public transit or carpool to work by being offered an extra \$20 a week. About 15% of county employees are reported as participating in the Program. The City of South San Francisco's Transportation Demand Management (TDM) Program requires all development projects that generate 100 or more trips to achieve a minimum 28% alternative mode by offering incentives such as free and preferential parking for carpools and vanpools. The City of Alameda requires businesses with 50 or more employees to adopt a trip reduction Program, which also includes preferential parking for ridesharing participants, among other measures.

By expanding the number of employers who offer commuter benefits, the proposed Program will reduce motor vehicle trips and emissions in the Bay Area. The proposed Program will also encourage Bay Area commuters to choose alternative transportation modes instead of driving alone to work, thereby reducing emissions of greenhouse gases. Accordingly, the proposed Program would help the Bay Area to achieve the GHG reduction goals in the Scoping Plan, Plan Bay Area, the Air District's climate protection resolution (adopted in November 2013) and in other local government planning efforts throughout the Bay Area.

Based upon the above considerations, no significant adverse impacts to greenhouse gases are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Be located within an airport land use plan or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Significantly increased fire hazard in areas with flammable materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

There are many federal and state rules and regulations that facilities handling hazardous materials must comply with which serve to minimize the potential impacts associated with hazards at these facilities. Under the Occupational Safety and Health Administration (OSHA) regulations [29 Code of Federal Regulations (CFR) Part 1910], facilities which use, store, manufacture, handle, process, or move highly hazardous materials must prepare a fire prevention plan. In addition, 29 CFR Part 1910.119, Process Safety Management (PSM) of Highly Hazardous Chemicals, and Title 8 of the California Code of Regulations, General Industry Safety Order §5189, specify required prevention Program elements to protect workers at facilities that handle toxic, flammable, reactive, or explosive materials.

Section 112 (r) of the Clean Air Act Amendments of 1990 [42 U.S.C. 7401 et. Seq.] and Article 2, Chapter 6.95 of the California Health and Safety Code require facilities that handle listed regulated substances to develop Risk Management Programs (RMPs) to prevent accidental releases of these substances, U.S. EPA regulations are set forth in 40 CFR Part 68. In California, the California Accidental Release Prevention (CalARP) Program regulation (CCR Title 19, Division 2, Chapter 4.5) was issued by the Governor's Office of Emergency Services (OES). RMPs consist of three main elements: a hazard assessment that includes off-site consequences analyses and a five-year accident history, a prevention Program, and an emergency response Program.

Affected facilities that store materials are required to have a Spill Prevention Control and Countermeasures (SPCC) Plan per the requirements of 40 Code of Federal Regulations, Section 112. The SPCC is designed to prevent spills from on-site facilities and includes requirements for secondary containment, provides emergency response procedures, establishes training requirements, and so forth.

The Hazardous Materials Transportation (HMT) Act is the federal legislation that regulates transportation of hazardous materials. The primary regulatory authorities are the U.S. Department of Transportation, the Federal Highway Administration, and the Federal Railroad Administration. The HMT Act requires that carriers report accidental releases of hazardous materials to the Department of Transportation at the earliest practical moment (49 CFR Subchapter C). The California Department of Transportation (Caltrans) sets standards for trucks in California. The regulations are enforced by the California Highway Patrol.

California Assembly Bill 2185 requires local agencies to regulate the storage and handling of hazardous materials and requires development of a business plan to mitigate the release of hazardous materials. Businesses that handle any of the specified hazardous materials must submit to government agencies (i.e., fire departments) an inventory of the hazardous materials, an emergency response plan, and an employee training Program. The information in the business plan can then be used in the event of an emergency to determine the appropriate response action, the need for public notification, and the need for evacuation.

Impacts

VIII. a), b), and g): There are no requirements as a result of the proposed Program that require the construction or modification of any buildings or structures, or alteration of existing structures. In addition, the Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area to meet any increased demand for transit service resulting from the Program. Therefore, transit agencies are not expected to generate any additional amounts of hazardous waste or expand the number of locations where hazardous waste is generated or stored. Thus, the proposed Program has no potential to create a significant hazard to the public or the environment through routine transport, use, and disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. In addition, there are no provisions that would impair the implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

VIII. c), d): Government Code §65962.5 typically refers to a list of facilities that may be subject to Resource Conservation and Recovery Act (RCRA) permits or site cleanup activities. The proposed PROGRAM does not involve in any way the handling or use of hazardous or acutely hazardous material. Since the proposed Program does not involve the use, handling, or disposal of hazardous materials, it will not affect facilities that may be included on the RCRA list or have the potential to emit emissions that may be hazardous to the public or the environment.

VIII. e) and f): The proposed Program will not adversely affect any airport land use plan or result in any safety hazard for people residing or working in the Air District. U.S. Department of Transportation – Federal Aviation Administration Advisory Circular AC 70/7460-2K provides information regarding the types of projects that may affect navigable airspace. For example, projects that involve construction or alteration of structures greater than 200 feet above ground level within a specified distance from the nearest runway; objects within 20,000 feet of an airport or seaplane base with at least one runway more than 3,200 feet in length and the object would exceed a slope of 100:1 horizontally (100 feet horizontally for each one foot vertically from the nearest point of the runway); etc., may adversely affect navigable airspace.

There are no requirements as a result of the proposed Program that require the construction or modification of any buildings or structures, or alteration of existing structures. Although some affected facilities may be located in the vicinity of public or private airports, there are no aspects of the Program that could generate safety hazards for people residing or working in the area. Therefore, the proposed Program will not result in structures or facilities that would be located within an airport land use plan.

VIII. h) and i): The proposed Program does not involve or affect the use of flammable materials, nor require the construction of any structures that could cause or be affected by wildland fires.

Based upon the above considerations, no significant adverse impacts to hazards or hazardous materials are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
IX. HYDROLOGY AND WATER QUALITY.				
Would the project:				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g. the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

The affected areas are located within the San Francisco Bay Area Hydrologic Basin. The primary regional groundwater water-bearing formations include the recent and Pleistocene (up to two million years old) alluvial deposits and the Pleistocene Huichica formation. Salinity within the unconfined alluvium appears to increase with depth to at least 300 feet. Water of the Huichica formation tends to be soft and relatively high in bicarbonate, although usable for domestic and irrigation needs. Reservoirs and drainage streams are located throughout the area and discharge into the Bays. Marshlands incised with numerous winding tidal channels containing brackish water are located throughout the Bay Area.

The Federal Clean Water Act of 1972 primarily establishes regulations for pollutant discharges into surface waters in order to protect and maintain the quality and integrity of the nation's waters. This Act requires industries that discharge wastewater to municipal sewer systems to meet pretreatment standards. The regulations authorize the U.S. EPA to set the pretreatment standards. The regulations also allow the local treatment plants to set more stringent wastewater discharge requirements, if necessary, to meet local conditions.

The 1987 amendments to the Clean Water Act enabled the U.S. EPA to regulate, under the National Pollutant Discharge Elimination System (NPDES) Program, discharges from industries and large municipal sewer systems. The U.S. EPA set initial permit application requirements in 1990. The State of California, through the State Water Resources Control Board, has authority to issue NPDES permits, which meet U.S. EPA requirements, to specified industries.

The Porter-Cologne Water Quality Act is California's primary water quality control law. It implements the state's responsibilities under the Federal Clean Water Act but also establishes state wastewater discharge requirements. The RWQCB administers the state requirements as specified under the Porter-Cologne Water Quality Act, which include storm water discharge permits. The water quality in the Bay Area is under the jurisdiction of the San Francisco Bay Regional Water Quality Control Board.

In response to the Federal Act, the State Water Resources Control Board is required to develop, adopt, and implement a Basin Plan for the Region.²⁰ The Basin Plan is the master policy document that contains descriptions of the legal, technical, and Programmatic bases of water quality regulation in the Region. The San Francisco Bay Basin Plan identifies the: (1) beneficial water uses that need to be protected; (2) the water quality objectives needed to protect the designated beneficial water uses; and (3) strategies and time schedules for achieving the water quality objectives. The first comprehensive Basin Plan for the San Francisco Bay Region was adopted and approved in April 1975. Subsequently, major revisions were adopted in 1982, 1986, 1992, 1995, 2002, 2004, and 2011. The beneficial uses of the Carquinez Strait, San Pablo

²⁰ RWQCB, 2013. Water Quality Control Plan for the San Francisco Bay Basin. Available at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/Programs/planningtmdls/basinplan/web/docs/BP_all_chapters.pdf

Bay, and Suisun Bay that must be protected which include water contact and non-contact recreation, navigation, ocean commercial and sport fishing, wildlife habitat, estuarine habitat, fish spawning and migration, industrial process and service supply, and preservation of rare and endangered species.

Impacts

IX. a) – f): There are no provisions under the proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. The proposed Program has no provision that affects hydrology and water resources in any way. Thus, implementation of the proposed Program would not require the construction of additional water resource facilities, the need for new or expanded water entitlements, or an alteration of drainage patterns. The project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The proposed Program would not create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality. In fact, to the extent that the Program is successful in decreasing motor vehicle travel, this should help to reduce runoff of water pollutants from motor vehicle and Bay Area roadways.

IX. g) – j): The proposed Program does not involve construction of any structures and does not require modifications or alterations to existing facilities. Therefore, there are no components of the proposed Program that would place housing within a 100-year flood hazard area nor would the proposed Program place structures that would impede or redirect flood flows. Similarly, the proposed Program has no potential to expose people or structures to a significant risk of loss, injury, or death involving flood or inundation by seiche, tsunami, or mudflow.

Based upon the above considerations, no significant adverse impacts to hydrology and water quality are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to a general plan, specific plan, local coastal Program or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Land uses are generally protected and regulated by city and/or county general plans through land use and zoning requirements.

Impacts

X. a) – c): There are no provisions of the proposed Program that would directly or indirectly affect land use plans, policies, or regulations. The Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area, the development of new transit centers or maintenance facilities to meet any increased demand for transit service resulting from the PROGRAM. Therefore, the Program will not interfere with any local land use plans or land use planning decisions.

Based upon the above considerations, no significant adverse impacts to land use and planning are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Mineral resources are generally protected and regulated by city and/or county general plans through land use and zoning requirements.

Impacts

XI. a) and b): There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. The Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area, or the development of new transit centers or maintenance facilities to meet any increased demand for transit service resulting from the Program. Thus, the proposed Program would not result in the loss of availability of a known mineral resource of value to the region and the residents of the state or of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

Based upon the above considerations, no significant adverse impacts to mineral resources are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
XII. NOISE. Would the project:				
a) Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose persons to or generate of excessive ground-borne vibration or ground-borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Be located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be located within the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Noise issues related to construction and operation activities are addressed in local General Plan policies and local noise ordinance standards. The General Plans and noise ordinances generally establish allowable noise limits within different land uses including residential areas, other sensitive use areas (e.g., schools, churches, hospitals, and libraries), commercial areas, and industrial areas.

Impacts

XII. a) – f): There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. The Program is not expected to

require any transit providers to increase the number of buses or trains operating within the Bay Area, or the development of new transit centers or maintenance facilities to meet any increased demand for transit service resulting from the Program.

Based upon the above considerations, no significant adverse impacts to noise are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area either directly (e.g., by proposing new homes and businesses) or indirectly (e.g. through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Population and housing growth and resources are generally protected and regulated by city and/or county general plans through land use and zoning requirements.

Impacts

XIII. a) – c): Human population in the Bay Area is anticipated to grow regardless of whether the proposed PROGRAM is implemented or not. One of the positive effects of the Program is that it should help the Bay Area cope with the projected growth in population and employment that will impose new demands on the regional transportation infrastructure. The proposed Program would not result in the creation of any industry that would induce or inhibit population growth or distribution. Because the proposed Program has no effect on population growth or distribution, the proposed Program would not directly or indirectly induce the construction of single or multi-family housing units.

Based upon the above considerations, no significant adverse impacts to population and housing are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XIV. PUBLIC SERVICES. Would the project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Given the large area covered by the Air District, public services are provided by a wide variety of local agencies. Fire protection and police protection/law enforcement services within the Air District are provided by various districts, organizations, and agencies. There are several school districts, private schools, and park departments within the Air District. Public facilities within the Air District are managed by different county, city, and special-use districts.

City and/or county general plans usually contain goals and policies to assure adequate public services are maintained within the local jurisdiction.

Impacts

XIV. a): The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. The Program is not expected to require any transit providers to increase the number of buses or trains operating within the Bay Area, or the development of new transit centers or maintenance facilities to meet any increased demand for transit service resulting

from the Program. In addition, the proposed Program does not induce or redistribute population growth and therefore would not increase demand on local fire or police services, schools, parks or other public facilities.

Based upon the above considerations, no significant adverse impacts to public services are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
XV. RECREATION. Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Recreational areas are generally protected and regulated by city and/or county general plans at the local level through land use and zoning requirements. Some parks and recreation areas are designated and protected by state and federal regulations.

Impacts

XV. a) and b): As discussed under “Land Use and Planning” and “Population and Housing” above, there are no provisions of the proposed project that would affect land use plans, policies, ordinances, or regulations. Land use and other planning considerations are determined by local governments. No land use or planning requirements, including those related to recreational facilities, will be altered by the proposed Program. The proposed Program does not have the potential to directly or indirectly induce population growth or redistribution. As a result, the proposed Program would not increase the use of, or demand for existing neighborhood and/or regional parks or other recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

Based upon the above considerations, no significant adverse impacts to recreation are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
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XVI. TRANSPORTATION/TRAFFIC. Would the project:

a) Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management Program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards because of a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or Programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Transportation systems located within the Bay Area include railroads, airports, waterways, and highways. The Port of Oakland and three international airports in the area serve as hubs for commerce and transportation. The transportation infrastructure for vehicles and trucks in the Bay Area ranges from single

lane roadways to multilane interstate highways. The Bay Area currently contains over 19,600 miles of local streets and roads, and over 1,400 miles of state highways. In addition, there are over 9,040 transit route miles of services including rapid rail, light rail, commuter, diesel and electric buses, cable cars, and ferries. The Bay Area also has an extensive local system of bicycle routes and pedestrian paths and sidewalks. At a regional level, the share of workers driving alone was about 68 percent in 2010.²¹ In addition, the portion of commuters that carpool was about 11 percent in 2010. About 3 percent of commuters walked to work. Other modes of travel (bicycle, motorcycle, etc.) accounted for approximately 3 percent of commuters.

The region is served by numerous interstate and U.S. freeways. On the west side of San Francisco Bay, Interstate 280 and U.S. 101 run north-south. U.S. 101 continues north of San Francisco into Marin County. Interstates 880 and 660 run north-south on the east side of the Bay. Interstate 80 starts in San Francisco, crosses the Bay Bridge, and runs northeast toward Sacramento. Interstate 80 is a six-lane north-south freeway which connects Contra Costa County to Solano County via the Carquinez Bridge. State Routes 29 and 84, both highways that allow at-grade crossings in certain parts of the region, become freeways that run east-west, and cross San Francisco Bay. Interstate 580 starts in San Rafael, crosses the Richmond-San Rafael Bridge, joins with Interstate 80, runs through Oakland, and then runs eastward toward Livermore. From the Benicia-Martinez Bridge, Interstate 680 extends north to Interstate 80 in Cordelia. Interstate 780 is a four lane, east-west freeway extending from the Benicia-Martinez Bridge west to I-80 in Vallejo.

The Metropolitan Transportation Commission is the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area. Preparing and regularly updating the Regional Transportation Plan, a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle, and pedestrian facilities, is among MTC's top responsibilities. Transportation planning is also conducted at the state and county level. Planning for interstate highways is generally done by the California Department of Transportation. Most local counties maintain a transportation agency that has the duties of transportation planning and administration of improvement projects within the county and implements the Transportation Improvement and Growth Management Program, and congestion management plans (CMPs). A CMP identifies a system of state highways and regionally significant principal arterials and specifies level of service standards for those roadways.

Impacts

XVI. a), b) and f): There are a number of agencies within the Bay Area that have plans, policies or ordinances that could directly or indirectly effect the overall operation of the transportation system throughout the Bay Area. These include the Metropolitan Transportation Commission (MTC), Congestion Management Agencies, Bay Area Rapid Transit (BART), Caltrain, Amtrak, AC Transit, SFMTA, VTA and numerous other transit providers. In addition, the Air District's 2010 Clean Air Plan (CAP) also includes mobile source policies and Programs that could indirectly influence the operation of the region's transportation network.

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees to reduce vehicle trips and VMT. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing

²¹ U.S. Census 1990 and 2000; American Community Survey, 2010. Data provided by MTC. Accessed November, 2013. Available at http://www.census.gov/acs/www/about_the_survey/american_community_survey_and_2010_census/

a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

Most employers are anticipated to offer employees the option to pay for transit expenses with pre-tax dollars. The Air District conservatively estimates 2% of commuters who currently drive single occupant vehicles will shift to transit as a result of decreased transit costs (ICF International 2013), or about 44,800 riders. A supplementary report prepared by MTC provides additional technical analysis of predicted travel behavior resulting from transit investments dedicated in Plan Bay Area, including the Program, was also used to assess the region's current and future transit capacity.²² The Air District's estimates and MTC's report indicate that even if every person who is anticipated to shift from driving alone will instead take heavy-rail (e.g. BART, Caltrain, SMART, etc.), there is sufficient capacity to accommodate the additional transit riders. As further explained below, current commuter rail services only fill 17% of their total seat-miles and regional transit systems are being expanded to accommodate an anticipated increase in transit ridership. Capacity constraints are generally considered to become an issue only if utilization levels exceed 80%, where a passenger would find it difficult or impossible to find a seat (see Plan Bay Area 2040 Public Review Draft Environmental Impact Report, Transportation Analysis, at page 2.1-35). Therefore, implementation of the Program is not expected to significantly affect the region's transit system capacity.

Transit capacity is generally measured in terms of "seat-miles" where the distance (miles) a transit vehicle travels is multiplied by the number of its seats. Daily transit seat-miles are expected to increase by 27% by 2040 as a result of transit expansion and frequency improvement projects described in Plan Bay Area. The largest increases in seat-miles are proposed for heavy-rail (i.e. BART), with the addition of 12,609,000 seat-miles resulting in a 29% increase. Capacities on other commuter rail systems (i.e. MUNI, AC, VTA, etc.) are projected to grow by an additional 8,379,000 seat-miles, an increase of 58%. These increases will primarily result from projects such as BART to San José, eBART, SMART, and Caltrain electrification and other improvements (see Plan Bay Area 2040 Public Review Draft Environmental Impact Report, Transportation Analysis, at page 2.1-26). Although population in the Bay Area will continue to increase, implementing the proposed PROGRAM and other transportation control measures (in conjunction with Plan Bay Area) will result in greater percentages of the population using transportation modes other than single occupant vehicles. As a result, relative to population growth, the performance of the existing regional circulation system, taking into account all modes of transportation, is not expected to decline in response to implementing the Program.

The proposed Program will complement and support the transportation control measures and other related control measures developed as part of the Air District's 2010 Clean Air Plan, as well as the regional transportation plan, Plan Bay Area, prepared by MTC and the Association of Bay Area Governments (ABAG). The Air District's CAP contains a variety of transportation control measures that include strategies, among others, to: enhance mobility by improving bus service (TCM A-1); improving rail service (TCM A-2); improving ferry service (TCM A-3); improving the efficiency of freeways and arterial systems (TCM B-1); improving transit efficiency and use (TCM B-2); and improving the movement of goods and reduce diesel emissions (TCM B-4). These specific strategies that serve to reduce vehicle trips and vehicle miles traveled, such as the Program's objective of promoting the use of alternative commute modes, such as mass transit, ridesharing, and telecommuting, are expected to result in reducing traffic congestion.

²² MTC, 2013. Final Summary of Predicted Traveler Responses. Supplementary Technical Documents Prepared for Plan Bay Area. Accessed November, 2013. Available at http://onebayarea.org/pdf/final_supplemental_reports/FINAL_PBA_Predicted_Traveler_Responses.pdf

XVI. c): Neither air traffic nor air traffic patterns are expected to be directly or indirectly affected by adopting the proposed Program. The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite. The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures. Thus, the proposed Program would not result in a change in air traffic patterns or a change in location that results in a substantial safety risk.

XVI. d): The proposed Program does not require the construction or modification of any buildings or structures, or alteration of existing structures that may either directly or indirectly result in roadways that may increase hazards due to design features such as sharp curves, etc. or incompatible uses.

XVI. e): The proposed Program does not require the construction or modification of any buildings or structures, or alteration of existing structures that may either directly or indirectly result in inadequate emergency access.

Based upon the above considerations, no significant adverse impacts to transportation or traffic are expected to occur due to implementation of the Program, and therefore, no further analysis is warranted.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less-than-Significant Impact	No Impact
XVII. UTILITIES AND SERVICE SYSTEMS.				
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite.

The Air District covers all of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa Counties and portions of southwestern Solano and southern Sonoma Counties. The area of coverage is vast (about 5,600 square miles) so that land uses and the affected environment vary greatly throughout the

area. Water is supplied by several water purveyors in the Bay Area. Solid waste is handled through a variety of municipalities, through recycling activities, and at disposal sites.

City and/or county general plans usually contain goals and policies to assure adequate utilities and service systems are maintained within the local jurisdiction.

Impacts

XVII. a) – e): The proposed Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite. The primary effect of the proposed Program would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. There are no provisions under proposed Program that require the construction or modification of any buildings or structures, alteration or addition of existing structures.

As discussed in the section addressing hydrology and water quality, the proposed Program would not create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality. Thus, implementation of the proposed Program would not result in exceeding wastewater treatment requirements, require the construction of new water or wastewater treatment facilities, or require new sources of water be developed.

XVII. f), g): The proposed Program is expected to result in a loss of future anticipated vehicle trip and associated emission reductions. The proposed Program has no provisions that generate solid or hazardous waste, require additional waste disposal capacity, or generate waste that does not meet applicable federal, state, or local regulations.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

XVIII. a) – c): Implementation of the proposed Program is expected to result in overall benefits to the environment. As discussed throughout this checklist, the Program would establish a requirement for all employers above a minimum threshold size to provide commuter benefits to their employees. As described in the Project Description above, employers subject to the Program would choose from among several commuter benefits options, including allowing employees to pay for their transit or vanpool fare using pre-tax dollars; providing a subsidy to defray the cost of employees transit or vanpool fares; or providing buses or shuttles for employees from transit stations and/or residential areas to the worksite. The primary effect of the proposed PROGRAM would be a modest shift in the regional commute mode split, by reducing the use of single occupancy vehicles and increasing the use of alternative commute modes, such as transit, ridesharing, bicycling, and walking. There are no provisions under proposed Progra that require the construction or modification of any buildings or structures, alteration or addition of existing structures.

Furthermore, there are no provisions of the proposed Program that would affect land use plans, policies, or regulations. Land use and other planning considerations are determined by local governments and no land use or planning requirements will be altered by the proposed Program. The proposed Program would not cause adverse effects that would degrade the quality of the environment, reduce habitat or fish or wildlife species, threaten a plant or animal community, or eliminate examples of California history or prehistory or in any way have an environmental effect that would cause adverse effects on human beings.

Chapter 4

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Chapter 5

ACRONYMS

AB	Assembly Bill
APCD	air pollution control district
AQMD	air quality management district
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BRT	Bus Rapid Transit
CAP	Clean Air Plan
CalARP	California Accidental Release Prevention Program
CCAA	California Clean Air Act
Caltrans	California Department of Transportation
CEQA	California Environmental Quality Act
CO ₂	carbon dioxide
PROGRAM	commuter benefits Program
CMA	congestion management agency
CMP	congestion management plan
DEIR	draft environmental impact report
DMG	Division of Mines and Geology
FICA	Federal Insurance Contributions Act
GC	Government Code
GHG	greenhouse gas
CH ₄	methane
g	grams
HFCs	haloalkanes
HMTA	Hazardous Material Transportation Act
mmtCO ₂ e	million metric tons carbon dioxide equivalent
MPO	metropolitan planning organization
MTC	Metropolitan Transportation Commission
Muni	San Francisco Municipal Transit Agency
NPDES	national pollutant discharge elimination system
NO _x	nitrous oxides
N ₂ O	nitrous oxide
OES	Office of Emergency Services
OSHA	Occupational Safety and Health Administration
PFCs	perfluorocarbons
PMT	passenger-mile traveled
PM	particulate matter
PM ₁₀	particulate matter less than 10 microns in diameter
PM _{2.5}	particulate matter less than 2.5 microns in diameter
PDA	Priority Development Areas

PSM	process safety management
PRC	Public Resources Code
ROG	reactive organic gas
RTP	regional transportation plan
RWQCB	regional water quality control board
RCRA	Resource Conservation and Recovery Act
SACOG	Sacramento Area Council of Governments
SANDAG	San Diego Association of Governments
SB	Senate Bill
SFBAAB	San Francisco Bay Area Air Basin
SFMTA	San Francisco Municipal Transportation Agency
SCS	Sustainable Communities Strategy
SMART	Sonoma-Marin Area Rail Transit
SF ₆	sulfur hexafluoride
SOV	single occupant vehicle
SPCC	spill prevention control and counter measures
TCM	transportation control measures
TEP	Transit Effectiveness Project
TDM	transportation demand management
TIP	Transportation Improvement Program
US EPA	United States Environmental Protection Agency
VMT	vehicle miles traveled