



BAY AREA  
AIR QUALITY  
MANAGEMENT  
DISTRICT

## BOARD OF DIRECTORS' REGULAR MEETING

JUNE 1, 2005

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

### Questions About an Agenda Item

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

### Meeting Procedures

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

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



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

WEDNESDAY  
JUNE 1, 2005

BOARD ROOM  
7TH FLOOR

9:45 A.M.

## CALL TO ORDER

Opening Comments  
Roll Call  
Pledge of Allegiance  
Commendation/Proclamation

Marland Townsend, Chairperson  
Clerk of the Boards

## PUBLIC COMMENT PERIOD

**Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**  
*Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.*

## CONSENT CALENDAR (ITEMS 1 – 3)

Staff/Phone (415) 749-

1. Minutes of May 18, 2005

M. Romaidis/4965  
[mromaidis@baaqmd.gov](mailto:mromaidis@baaqmd.gov)

2. Communications  
*Information only*

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

3. Report of the Advisory Council

B. Zamora/4962  
[Bzamora@co.sanmateo.ca.us](mailto:Bzamora@co.sanmateo.ca.us)

## COMMITTEE REPORTS AND RECOMMENDATIONS

4. Report of the **Budget and Finance Committee** Meeting of May 18, 2005

CHAIR: J. MILLER

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

*Action(s): The Committee recommends Board of Director approval of the following:*

- A) *Increase the District's approved FY 04/05 Penalties and Settlements Revenue budget by \$800,000 to \$2,800,000 and County Revenue budget by \$638,000 to \$14,961,175 for a total increase of \$1,438,000;*
- B) *Correspondingly, increase the FY 04/05 Capital Outlay for Building and Grounds by \$1,090,600, the Outlay for Motorized Equipment by \$130,000, the Outlay for Lab & Monitoring Equipment by \$171,400, and the Outlay for Computer & Network Equipment by \$46,000, for a total increase of \$1,438,000;*

Report of the **Budget and Finance Committee** Meeting of May 18, 2005 Continued

*Action(s): The Committee recommends Board of Director approval of the following:*

- C) Add a new line item in the FY 04/05 Public Information and Outreach Professional Services budget for costs related to the 50<sup>th</sup> Anniversary Symposium in the amount of \$250,000, and correspondingly add a revenue line item of \$250,000 to recognize sponsorship income for this event;*
- D) Approval of Proposed amendments to the fee schedules and adoption of fee regulation; and*
- E) Approval of Fiscal Year 2005/2006 Proposed Budget upon completion of the second public hearing.*

5. Report of the **Executive Committee** Meeting of May 20, 2005

**CHAIR: M. TOWNSEND**

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

*Action(s): The Committee recommends that the Board of Directors adopt the attached resolution establishing a climate change program at the Air District.*

6. Report of the **Stationary Source Committee** Meeting of May 23, 2005

**CHAIR: M. DeSAULNIER**

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

**PUBLIC HEARING**

7. Public Hearing to Consider Approval of Proposed Amendments to Regulation 2, Rule 1: Permits, Section 407: Permit (Authority to Construct) Expiration and approval of the filing of a California Environmental Quality Act (CEQA) Notice of Exemption

**B. Bateman/4653**  
[bbateman@baaqmd.gov](mailto:bbateman@baaqmd.gov)

*The proposed amendments to Regulation 2, Rule 1, Section 407 will allow an Authority to Construct to be renewed by request beyond the four year time limit if the authority to construct has been substantially used or the project is a long term project that is covered by an EIR.*

**OTHER BUSINESS**

8. Report of the Executive Officer/APCO

9. Chairperson's Report

10. Board Members' Comments

Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

11. Time and Place of Next Meeting – Wednesday, June 1, 2005 – Immediately Following Regular Meeting of the Board - 939 Ellis Street, San Francisco, CA 94109

12. Adjournment

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

**(415) 749-4965**  
**FAX: (415) 928-8560**  
**BAAQMD homepage:**  
[www.baaqmd.gov](http://www.baaqmd.gov)

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Clerk's Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Townsend and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 20, 2005

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of May 18, 2005.

DISCUSSION

Attached for your review and approval are the draft minutes of the May 18, 2005 Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Draft Minutes: Board of Directors' Regular Meeting – May 18, 2005

**Call To Order**

Opening Comments: Chairperson Marland Townsend called the meeting to order at 9:45 a.m.

Roll Call: Present: Marland Townsend, Chair, Roberta Cooper, Chris Daly (9:55 a.m.), Mark DeSaulnier, Dan Dunnigan, Erin Garner, Scott Haggerty, Jerry Hill, Liz Kniss (9:58 a.m.), Patrick Kwok, Jake McGoldrick (9:50 a.m.), Julia Miller, Mark Ross, Michael Shimansky, John Silva, Pam Torliatt (10:22 a.m.), Gayle B. Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Harold Brown, Nate Miley, Tim Smith.

Pledge of Allegiance: Director Kwok led the Board in the Pledge of Allegiance.

Commendation/Proclamation: There were none.

**Public Comment Period:** There were none.

**Presentation**

*The Board of Directors received a presentation from students of Robertson Middle School who have completed the Clean Air Challenge curriculum. Students have been selected to present their final projects and to thank the Board.*

Luna Salaver, Public Information Officer, reviewed the Spare the Air youth outreach program, which includes the Clean Air Challenge Curriculum. The curriculum focuses on the impact of vehicle emissions. Six students from Robertson Middle School in Daly City presented their clean air projects to the Board.

Director Jake McGoldrick arrived at 9:50 a.m. and Director Chris Daly arrived at 9:55 a.m.

Director Uilkema suggested that the District could borrow the posters made by the students and display them.

**Consent Calendar (Items 1 – 9)**

1. Minutes of May 4, 2005
2. Communications. Correspondence addressed to the Board of Directors

3. Report of the Advisory Council. There was no report.
4. Monthly Activity Report

*Report of Division Activities for the month of April 2005.*

5. Resolution Supporting World Environment Day and the San Francisco Urban Environmental Accords

*The Board of Directors considered approval of a resolution supporting the World Environment Day 2005 and the San Francisco Urban Environmental Accords.*

6. Set Public Hearing for June 1, 2005 to Consider Approval of Proposed Amendments to Regulation 2, Rule 1: Permits, Section 407; Permit (Authority to Construct) Expiration and approval of the filing of a California Environmental Quality Act (CEQA) Notice of Exemption

*The proposed amendments to Regulation 2, Rule 1, Section 407 will allow an Authority to Construct to be renewed by request beyond the four year time limit if the authority to construct has been substantially used or the project is a long term project that is covered by an EIR.*

7. Set Public Hearings for June 1, 2005 and June 15, 2005 to Consider the Air District's Proposed FY 2005/2006 Budget

*Pursuant to Health and Safety Code Section 40131, the Air District set public hearings for June 1, 2005 and June 15, 2005 to review the Air District's Proposed FY 2005/2006 Budget. Final action on the budget will be taken at the conclusion of the second public hearing on this matter scheduled for June 15, 2005.*

8. Set Public Hearing for June 15, 2005 to Consider Approval of Proposed Amendments to Regulation 3: Fees and approval of the filing of a California Environmental Quality Act (CEQA) Notice of Exemption

*The proposed amendments to Regulation 3: Fees, would increase fees on July 1, 2005 based on the results of the Cost Recovery Study by Stonefield Josephson, Inc.*

9. Set Public Hearing for June 15, 2005 to Consider Proposed New Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants; Proposed Manual of Procedures, Volume II, Part 4: New and Modified Sources of Toxic Air Contaminants; proposed amendments to various District rules for consistency with proposed Regulation 2, Rule 5; and certification of a California Environmental Quality Act (CEQA) Environmental Impact Report

*The proposed rule and chapter to the Manual of Procedures will incorporate existing Air Toxics New Source Review policies to prevent significant increases in health risks resulting from new and modified sources of toxic air contaminants. The rule will also reduce existing health risks by requiring updated control requirements when older, more highly polluting sources are modified or replaced.*



**Board Action:** Director Young moved approval of the Consent Calendar; seconded by Director Wagenknecht; carried unanimously with the following Board members voting:

AYES: Cooper, Daly, DeSaulnier, Dunnigan, Garner, Haggerty, Hill, Kwok, McGoldrick, Miller, Ross, Shimansky, Silva, Uilkema, Wagenknecht, Young, Townsend.

NOES: None.

ABSENT: Brown, Kniss, Miley, Smith, Torliatt.

**Adopted Resolution No. 2005-03 – A Resolution Supporting UN World Environment Day, June 1 – 5<sup>th</sup> 2005 and the San Francisco Urban Environmental Accords**

### **Committee Reports and Recommendations**

10. Report of the Budget and Finance Committee Meeting of May 5, 2005

Director Miller presented the report and stated that the Committee met on Thursday, May 5, 2005 and received the District Financial Audit Report for Fiscal Year 2003/2004 from the auditor. The auditor summarized the process for conducting the audit and reported that there were no reportable conditions or instances of non-compliance.

Staff presented a report on the proposed fee regulation amendments, which are based largely on the recommendations from the Cost Recovery Study. Some fee schedules have been proposed for a 15% increase, others for a 5% increase, and others to remain status quo. Several new fees were proposed on authority to construct renewal, potential to emit demonstrations and health risk screening for Toxics New Source Review. A public workshop on the proposal took place on Friday, May 6. The Committee provided direction to staff on several items. The Committee at its next meeting will take into account the input from the workshop and revised staff information in preparing its recommendations for the Board.

The Committee also received the first of two staff presentations regarding the District's budget for 2005/2006. Staff outlined the budgetary challenges facing the District. Staff is proposing some additional cost-saving measures, including shifting the workforce to a 9/80 schedule to save on building operating costs by closing the District every other Friday.

The Third Quarter Financial Report for FY 2004/2005 was deferred to the next meeting of the Committee. The next meeting of the Committee is scheduled for today immediately following the Regular Board meeting.

**Board Action:** Director Miller moved that the Board approve the report of the Budget and Finance Committee; seconded by Director Kwok; carried unanimously without objection.

Director Liz Kniss arrived at 9:58 a.m.

11. Report of the Public Outreach Committee Meeting of May 16, 2005

Director Young presented the report and stated that the Public Outreach Committee met on Monday, May 16, 2005. Dr. Timothy McLarney of True North Research reviewed and presented highlights from the public opinion surveys conducted during the two weekday Spare the Air days in 2004. Dr. McLarney noted that the 2004 campaign was the most successful one to date. Approximately 800 surveys were conducted over the 9 Bay Area counties.

Courtney Newman of Allison and Partners updated the Committee on the 2005 Spare the Air campaign. Ms. Newman reviewed the media coverage, events that will be happening throughout the campaign, a press conference regarding free transit days, World Environment Day and the District's 50<sup>th</sup> Anniversary symposium in June. Staff reviewed the employer program.

The Committee received an update on the progress being made in planning the District's 50<sup>th</sup> anniversary celebration. Staff presented the material being produced for the celebration, including bookmarks, a pin and kites.

Staff provided a status report on the 2005 lawn mower buy-back programs. Three lawn mower buy-back programs are being held this year in Sunnyvale, Pleasanton, and Concord. The Committee viewed two television segments that promoted the lawn mower buy-back program.

Staff updated the Committee on the referrals from the previous meeting. The Committee discussed National Walk to School Day being held on October 6, 2005 and sources of funding for the event. The next meeting of the Committee is scheduled for 9:30 a.m., Monday, July 18, 2005.

**Board Action:** Director Young moved that the Board approve the report of the Public Outreach Committee; seconded by Director Cooper; carried unanimously without objection.

### **Public Hearing**

12. Public Hearing to Consider Amendments to District Manual of Procedures, Volume III: Laboratory Methods; and Approval of a Notice of Exemption pursuant to the California Environmental Quality Act

*Amendments to the Laboratory Methods in the Manual of Procedures were proposed to incorporate advances in analytical equipment, add clarity, improve accuracy, reduce costs and respond to comments by EPA technical staff.*

Chairperson Townsend opened the Public Hearing at 10:02 a.m.

Jack Broadbent, Executive Officer/APCO, stated that the Manual of Procedures is part of the District Rules and Regulations and, therefore, requires Board approval.

Eppie David, Principal Chemist, briefly reviewed the new and amended Methods. The proposed amendments have been approved by EPA technical staff; have met all legal noticing requirements; and have the potential to reduce costs and increase productivity. Ms. David stated that staff recommends the Board adopt the amendments to the Manual of

Procedures, Volume III and requests the Board approve the filing of a CEQA Notice of Exemption.

There were no public speakers on this item.

Director Haggerty moved to close the Public Hearing at 10:09 a.m.; seconded by Director Daly; carried unanimously.

**Board Action:** Director Haggerty moved that the Board of Directors approve the staff recommendations; seconded by Director Miller; carried unanimously with the following Board members voting:

AYES: Cooper, Daly, DeSaulnier, Dunnigan, Garner, Haggerty, Hill, Kniss, Kwok, McGoldrick, Miller, Ross, Shimansky, Silva, Uilkema, Wagenknecht, Young, Townsend.

NOES: None.

ABSENT: Brown, Miley, Smith, Torliatt.

**Adopted Resolution No. 2005-04 – A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending the District’s Manual of Procedures, Volume II: Laboratory Methods**

### **Other Business**

13. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following items:
  1. The District’s 2004 Annual Report is completed and a copy is at each Board members place. The Report will also be sent to stakeholders and other interested parties.
  2. The Board viewed two new video spots launching the summer time Spare the Air program.
  3. The Air District is hosting a World Environment Day event on Wednesday, June 1<sup>st</sup> at St. Mary’s Cathedral Center; an invitation was at each Board members place.
  4. The Spare the Air wrist bands, which are intended to help launch the Spare the Air program, were distributed also.

Director Pamela Torliatt arrived at 10:22 a.m.

The cost of the Annual Report and its distribution was discussed by the Board.

14. Chairperson’s Report: Chairperson Townsend stated he had no report, but reminded the Board that the Budget and Finance Committee would be meeting immediately after the Board meeting.
15. Board Members’ Comments – There were none.
16. Time and Place of Next Meeting – 9:45 a.m., Wednesday, June 1, 2005, 939 Ellis Street, San Francisco, CA 94109.

17. Adjournment – The meeting adjourned at 10:38 a.m.

Mary Romaidis  
Clerk of the Boards

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 23, 2005

Re: Report of the Budget & Finance Committee Meeting of May 18, 2005

RECOMMENDED ACTION

The Budget and Finance Committee recommends Board of Directors approval of the following items:

- A) Increase the District's approved FY 04/05 Penalties and Settlements Revenue budget by \$800,000 to \$2,800,000 and County Revenue budget by \$638,000 to \$14,961,175 for a total increase of \$1,438,000;
- B) Correspondingly, increase the FY 04/05 Capital Outlay for Building and Grounds by \$1,090,600, the Outlay for Motorized Equipment by \$130,000, the Outlay for Lab & Monitoring Equipment by \$171,400, and the Outlay for Computer & Network Equipment by \$46,000, for a total increase of \$1,438,000;
- C) Add a new line item in the FY 04/05 Public Information and Outreach Professional Services budget for costs related to the 50<sup>th</sup> Anniversary Symposium in the amount of \$250,000, and correspondingly add a revenue line item of \$250,000 to recognize sponsorship income for this event;
- D) Approval of Proposed amendments to the fee schedules and adoption of fee regulation; and
- E) Approval of Fiscal Year 2005/2006 Proposed Budget upon completion of the second public hearing.

BACKGROUND

The Budget & Finance Committee met on May 18, 2005. Staff presented updates and recommendations on the following items:

- Third Quarter Financial Report;
- Request to Increase FY 2004/2005 Approved Budget;
- Continued Discussion on and Consideration of Recommending Board of Director Approval of the Proposed Amendments to the Fee Regulation; and
- Continued Discussion and Consideration of Recommended Adoption of Fiscal Year 2005/2006 Draft Budget.

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

Chairperson, Julia Miller will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Staff recommendations to amend the District's approved FY 2004/2005 budget will increase the District's FY 04/05 Penalties and Settlements Revenue Budget by \$800,000 to \$2,800,000 and County Revenue Budget by \$638,000 to \$14,961,175 for a total increase of \$1,438,000. In addition this action will result in a corresponding, increase in the FY 04/05 Capital Outlay for Building and Grounds by \$1,090,600, the Outlay for Motorized Equipment by \$130,000, the Outlay for Lab & Monitoring Equipment by \$171,400, and the Outlay for Computer & Network Equipment by \$46,000, for a total increase of \$1,438,000;

This action will also add a new line item in the FY 04/05 Public Information and Outreach Professional Services Budget for costs related to the 50<sup>th</sup> Anniversary Symposium in the amount of \$250,000, and correspondingly add a revenue line item of \$250,000 to recognize sponsorship income for this event;

Overall, the proposed amendments would result in an increase in fee revenue of approximately \$1.4 million in FY 2005-06 from projected revenue levels in the current fiscal year, representing an increase of about 7 percent; and

The proposed consolidated budget for FY 2005/2006 is \$57,562,208.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Inter Office Memorandum

To: Chairperson Miller and Members  
of the Budget and Finance Committee

From: Jeff McKay  
Interim Director of Administrative Services

Date: May 11, 2005

Re: Third Quarter Financial Report

RECOMMENDED ACTION:

Informational report. Receive and file.

DISCUSSION

GENERAL FUND BUDGET: STATEMENT OF REVENUE

Comparison of Budget to Actual Revenue

- County Revenue receipts were \$8,276,937 (58%) of budgeted revenue. Alameda, San Mateo and Santa Clara counties accounted for the majority of the receipts received.
- Permit Fee receipts were \$14,577,050 (79%) of budgeted revenue.
- Asbestos Fees were \$1,157,486 (89%) of budgeted revenue.
- Penalties and Settlements receipts were \$1,646,712 (82%) of budgeted revenue.
- State Subvention was \$1,730,915 (93%) of budgeted revenue.
- Interest Income receipts were \$255,828 (52%) of budgeted revenue.
- Miscellaneous Revenue receipts were \$ 509,397 (291%) of budgeted revenue.

GENERAL FUND BUDGET: STATEMENT OF EXPENDITURES

Comparison of Budget to Actual Expenditures

- Salaries and Benefits were \$23,072,801 (71%) of estimated expenditures.
- Operational Services and Supplies were \$7,335,728 (80%) of estimated expenditures.
- Capital Outlay was \$637,981 (18%) of estimated expenditures.

TFCA FUND: STATEMENT OF INCOME AND EXPENDITURES

- Total Revenue was \$2,219,093 (36%) of estimated revenue and expenditures.
- Salary and Benefits were \$1,089,409 (70%) of estimated expenditures.
- Operational Services and Supplies were \$1,129,684 (25%) of estimated expenditures.

BUDGET CONSIDERATION/FINANCIAL IMPACT

No impact on current year budget.

Respectfully submitted,

Jeff McKay  
Interim Director of Administrative Services

FORWARDED \_\_\_\_\_

Prepared by: Jeff McKay



**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Interoffice Memorandum

To: Chairperson Miller and Members  
of the Budget and Finance Committee

From: Jeff McKay  
Interim Director of Administrative Services

Date: May 11, 2005

Re: Consider Request to Revise Fiscal Year 2004/2005 Approved Budget

RECOMMENDED ACTION:

Consider recommending that the Board of Directors approve staff's recommendation to increase the District's approved FY 04/05 Penalties and Settlements Revenue budget by \$800,000 to \$2,800,000 and County Revenue budget by \$638,000 to \$14,961,175 for a total increase of \$1,438,000.

Consider recommending that the Board of Directors correspondingly approve staff's recommendation to increase the FY 04/05 Capital Outlay for Building and Grounds by \$1,090,600, the Outlay for Motorized Equipment by \$130,000, the Outlay for Lab & Monitoring Equipment by \$171,400, and the Outlay for Computer & Network Equipment by \$46,000, for a total increase of \$1,438,000

Consider recommending that the Board of Directors approve staff's recommendation to add a new line item in the FY 04/05 Public Information and Outreach Professional Services budget for costs related to the 50<sup>th</sup> Anniversary Symposium in the amount of \$250,000, and correspondingly add a revenue line item of \$250,000 to recognize sponsorship income for this event.

DISCUSSION

The District has received, and will receive further additional funds exceeding those projected during development of the FY 04/05 budget. In keeping with proper budgeting and accounting practices, the receipts of these funds should be recognized in a mid-year budget adjustment. In the past, staff has recommended mid-year budget adjustments when necessary.

The Penalty and Settlement Revenue budget will increase from \$2,000,000 to \$2,800,000. The adjustment of \$638,000 in the County Revenue budget will result in a budget of \$14,961,175.

Additional Penalty and Settlement revenue should be viewed as a one-time event. The adjustment to County revenue is the result of higher than anticipated residential real estate activity in certain Bay Area communities.

Of the proposed purchase items listed below, items totaling \$608,840 are presented for removal from the proposed FY 2005-2006 budget, decreasing the Transfer-in from designated reserves in that budget.

The items proposed to be purchased are:

<u>Description</u>	<u>Cost</u>	<u>Proposed FYE 06</u>
<b><u>Motorized Equipment</u></b>	<b>\$130,000</b>	
Five CNG Vehicles	\$130,000	X
<b><u>Building and Grounds</u></b>	<b>\$1,090,600</b>	
Phase III Fire Alarm	\$116,340	X
ADA Upgrades	\$147,300	X
Phase IV HVAC work	\$653,160	
Electrical Closet Code Repairs	\$13,000	
Stairwell Fire Door Replacement	\$14,000	
Paragin Lift for Vehicles	\$27,000	
2nd Floor Offices	\$50,000	
Nine Offices for Engineering Staff	\$69,800	X
<b><u>Lab &amp; Monitoring Equipment</u></b>	<b>\$171,400</b>	
Personal Gas Sampling Monitors	\$12,000	X
Hand held Particulate Monitors	\$6,000	X
Vapor Analyzers (4-TVAs)	\$24,000	X
Organic Vapor Analyzers (2-OVAs)	\$12,000	
Smoke Generator	\$57,400	X
Wind Profiler	\$60,000	
<b><u>Computer and Network Equipment</u></b>	<b>\$46,000</b>	
Lap Top Computers	\$46,000	X

The costs related to the 50<sup>th</sup> Anniversary Symposium, including planning, speakers fees, venue rental, catering and the like are expected to be approximately \$250,000. As previously discussed with the Board of Directors, the District is in the process of soliciting sponsorship for this event which is expected to largely defray the costs.

**BUDGET CONSIDERATION/FINANCIAL IMPACT**

This action will increase the District's FY 04/05 Penalties and Settlements Revenue Budget by \$800,000 to \$2,800,000 and County Revenue Budget by \$638,000 to \$14,961,175 for a total increase of \$1,438,000. In addition this action will result in a corresponding, increase in the FY 04/05 Capital Outlay for Building and Grounds by \$1,090,600, the Outlay for Motorized Equipment by \$130,000, the Outlay for Lab & Monitoring Equipment by \$171,400, and the Outlay for Computer & Network Equipment by \$46,000, for a total increase of \$1,438,000

This action will also add a new line item in the FY 04/05 Public Information and Outreach Professional Services Budget for costs related to the 50<sup>th</sup> Anniversary Symposium in the amount of \$250,000, and correspondingly add a revenue line item of \$250,000 to recognize sponsorship income for this event.

Respectfully submitted,

Jeff McKay  
Interim Director of Administrative Services

FORWARDED \_\_\_\_\_

**BAY AREA AIR QUALITY MANGEMENT DISTRICT**

Inter Office Memorandum

To: Chairperson Miller and Members  
of the Budget and Finance Committee

From: Brian Bateman  
Director of Engineering

Date: April 11, 2005

Re: Continued Discussion of Proposed Amendments to the District Fee Regulation  
and Consider Recommending Adoption

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RECOMMENDED ACTION:

Consider recommending that the Board of Directors adopt the proposed amendments to the fee regulation for FY 2005-06.

BACKGROUND

Staff provided a summary of proposed amendments to the District's fee regulation at the Budget and Finance Committee meeting held on Thursday, May 5, 2005. Under this proposal, the increases in individual fee schedules would be based on the magnitude of the cost recovery gap indicated in the recently completed Cost Recovery Study. Fee schedules with the largest cost recovery gaps would be increased by 15 percent; schedules with less significant gaps, along with most administrative fees, would be increased by five percent; schedules with no cost recovery gaps would not be increased. Fees would be increased for refinery flares and health risk screening analyses to more appropriately reflect increased program activity costs in these areas.

Finally, new fees would be created for the renewal of Authorities to Construct and for Potential to Emit demonstrations, both of which are permit activities that are currently not subject to fees. Overall, the proposed amendments would result in an increase in fee revenue of approximately \$1.4 million in FY 2005-06 from projected revenue levels in the current fiscal year, representing an increase of about 7 percent.

DISCUSSION

A public workshop to discuss the proposed fee amendments was held on Friday, May 6, 2005. Staff will provide a summary of the workshop, and the public comments received, to the Budget and Finance Committee at the May 18, 2005 meeting. Staff will also provide additional information requested by the Committee regarding the impact of the proposed amendments on fees for certain facilities. The proposed fee amendments have been scheduled to be presented to the Board of Directors for consideration of adoption on June 15, 2005, with an effective date of July 1, 2005.

Respectfully submitted,

Brian Bateman  
Director of Engineering

FORWARDED\_\_\_\_\_

Prepared by: Brian Bateman  
Reviewed by: Jean Roggenkamp

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

Office Memorandum

To: Chairperson Miller and Members  
of the Budget and Finance Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 11, 2005

Re: Continued Discussion of Fiscal Year 2005/2006 Proposed District Budget and  
Consideration of Recommended Adoption

RECOMMENDED ACTION:

Consider Budget and Finance Committee recommendation to the Board of Directors for adoption of the proposed fiscal year 2005/2006 Budget.

BACKGROUND:

As directed by Chairperson Townsend at the May 4, 2005 regular Board meeting, the Fiscal Year 2005/2006 Budget document was referred to the Budget and Finance Committee for review and recommendations. The Committee reviewed the budget at the May 5, 2005 Committee meeting. At that meeting, continued review and discussion of the budget was scheduled for the May 18, 2005 meeting.

DISCUSSION:

Staff presented the proposed budget for Fiscal Year 2005/2006 at the May 5, 2005 meeting. Following additional revisions after that meeting the proposed budget is balanced with the inclusion of a \$1.0 million transfer in from undesignated reserves. General Fund Revenues, Transfers-In from Designated Reserves for PERS Funding, Production System Funding, Building and Facilities Funding, and Capital Equipment Funding along with Transportation Fund for Clean Air (TFCA) Indirect Cost Recovery and TFCA Revenues and Mobile Source Incentive Fund (MSIF) Indirect Cost Recovery and Revenues are \$56.6 million. Proposed consolidated expenditures are \$57.6 million. Proposed capital requests are \$411,150 and there is a proposed 7.43 FTE increase, 3.12 of which are funded from the General Fund.

Staff was directed to review and report back to the committee on the following items:

- Increased revenues and associated expenditures from TFCA and the new (\$11 million) MSIF.
- Description of changes to management positions and staff positions after November of 2003.
- The opportunity to phase in proposed new positions over the fiscal year.
- Budgeting for contributions to other organizations.

Staff published, prior to May 1, 2005, a notice to the general public that the first of two public hearings on the budget will be conducted on June 1, 2005 and that the second hearing will be conducted on June 15, 2005.

BUDGET CONSIDERATION/FINANCIAL IMPACT:

The proposed consolidated budget for FY 2005/2006 is \$57,562,208.

Respectfully submitted

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeff McKay  
Reviewed by: Brian Bunger

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 23, 2005

Re: Report of the Executive Committee Meeting of May 20, 2005

RECOMMENDED ACTION

The Committee recommends Board of Director approval of the attached resolution establishing a climate change program at the District.

BACKGROUND

The Executive Committee met on Friday, May 20, 2005. The Committee received a report from the Advisory Council Chairperson, Brian Zamora that included a Climate Change resolution that was unanimously approved by the full Council encouraging the District to address climate change. Advisory Council member, Stan Hayes gave a presentation on Global Climate Change.

Staff presented updates and recommendations on the following items:

- Resolution Creating a Climate Change and Protection Program;
- Update on the Joint Policy Committee;
- Status Report on Financial Audit of Internal Controls;
- Budgetary Discussion and Direction from the Committee; and
- Ongoing Work Performed by the Information Systems Division on the Production System Replacement.

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

Chairperson Townsend will give an oral report of the meeting.

## BUDGET CONSIDERATION/FINANCIAL IMPACT

The proposed FY 2005/2006 budget includes a new program #608 reflecting Air District climate change activities. All personnel costs in program #608 represent existing staff. \$60,000 is proposed for costs associated with hosting a regional conference and conducting public education campaigns.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members of the Executive Committee  
From: Brian Zamora, Chairperson, Advisory Council  
Date: May 11, 2005  
Re: Report of the Advisory Council: March 18 – May 10, 2005

RECOMMENDED ACTIONS:

Receive and file.

DISCUSSION:

Presented below are summaries of the key issues discussed at meetings of the Advisory Council and its Standing Committees during the above reporting period.

- a) Air Quality Planning Committee Meeting – April 4, 2005. The Committee received and discussed a presentation on the Governor’s Hydrogen Highway Blueprint from Dr. Shannon Baxter-Clemmons of the California Environmental Protection Agency Region IX. *(Draft minutes included in the May 20, 2005 Board Executive Committee Meeting Agenda packet.)*
- b) Technical Committee Meeting – April 13, 2005. The Committee received and discussed presentations on the Community Air Risk Evaluation (CARE) program and recent developments in the management of greenhouse gas emissions. *(Draft minutes included in the May 20, 2005 Board Executive Committee Meeting Agenda packet.)*
- c) Public Health Committee Meeting – April 18, 2005. The Committee received and discussed a presentation on indoor air quality from the California Air Resources Board. *(Draft minutes included in the May 20, 2005 Board Executive Committee Meeting Agenda packet.)*

Respectfully submitted,

Brian Zamora  
Advisory Council Chairperson

Prepared by: James N. Corazza

FORWARDED BY: \_\_\_\_\_

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

**DRAFT MINUTES**

Air Quality Planning Committee Meeting  
1:00 p.m., Monday, April 4, 2005

- 1. Call to Order – Roll Call.** 1:10 a.m. Present: John Holtzclaw, Ph.D., Chairperson; Harold Brazil, Irvin Dawid, Emily Drennen, Fred Glueck, Kraig Kurucz, Kevin Shanahan.
- 2. Public Comment Period.** There were no public comments.
- 3. Approval of Minutes of February 9, 2005.** Mr. Brazil requested that he be listed as “Present.” Mr. Glueck moved approval of the minutes as corrected; seconded by Mr. Brazil; carried unanimously.
- 4. California Hydrogen Highway Blueprint.** Dr. Shannon Baxter-Clemmons, Special Advisor on Hydrogen and Renewables, California Environmental Protection Agency (Cal-EPA) stated that the draft Blueprint was officially released on March 30, 2005. The first presentation on the Blueprint was given to the National Hydrogen Association last week. This is the second such presentation.

The Blueprint’s inception can be traced to January 6, 2004 when California Governor Arnold Schwarzenegger declared that he intended to promote hydrogen power and a hydrogen highway, and environmental health and economic growth simultaneously. His Executive Order S-7-04 designated 21 interstate freeways in the state as the Hydrogen Highway Network (“H2 CA Net”). He asked Cal-EPA to be the lead agency in developing the Blueprint for its development and implementation. The Governor perceives this approach as having energy security benefits as well. To date, three hydrogen stations have been formally designated as part of the H2 CA Net. There are 16 hydrogen stations in the State, but the other 13 are not yet sufficiently accessible to the public to be declared part of the H2 CA Net.

For assistance and oversight in developing the Blueprint, Cal-EPA put together an advisory panel of over 200 individuals from interest and stakeholder groups, each participating on a voluntary basis. These were allocated among five topic teams that developed independent reports, detailing an approach to the topic and offering roll-out strategies, assessing the status of technology, how to site the stations throughout the state, assessing societal benefits, economic challenges, implementation issues with regard to standards, codes and risk assessment, and public education.

The draft Blueprint contains seven reports. Volume I concerns policy documentation. Volume II addresses technical issues. Together, these represent the consensus of the advisory panel and its recommendations to the Governor. Five independently produced topic team reports follow.

The goal of the H2 CA Net is to diversify the sources of transportation energy used and to provide environmental and economic benefits. A phased approach will make use of existing alternative fuels and emerging technologies to help develop hydrogen use and to bridge the gap between today’s alternative fuel technologies and hydrogen technologies of the future.

Its initial Phase I goal is to have 50-100 fueling stations throughout California, 2000 light-duty fuel cell vehicles (FCVs), 10 heavy-duty FCVs and five stationary or off-road applications. Phase II aims to establish 250 hydrogen fueling stations in a lower-usage mode, 10,000 light-duty FCVs, 100 heavy-duty FCVs, and 60 stationary and off-road vehicle applications. Phase III aims to double the number of light duty vehicles on the road to 20,000, achieve a number of at least 300 heavy-duty FCVs on the road as well as 400 stationary and off-road vehicle applications in operation.

Regarding station build up, the Blueprint contains an action plan and a biennial review process. The action plan is identified in Volume I and calls for the Governor to provide funding, while emphasizing public/private partnerships to build stations and procure vehicles. Societal benefit goals include increasing renewable energy sources and minimizing greenhouse gas emissions. Station build up will begin in urban centers and thereafter spread outward into California.

Cal-EPA and the Bush Administration differ on the station mix criteria. The former seek a diversity of hydrogen producing technologies whereas the latter emphasizes production from coal combustion processes. The advisory panel members agree that renewable energy sources for hydrogen production are to be emphasized, and note that renewable energy sources and hydrogen are reciprocally interconnected in a variety of ways. Also, the lowest cost option is not necessarily to be preferred, inasmuch as other technologies that will be available in the not-to-distant future will become increasingly important. Use of existing stations is highly emphasized along with the development of new ones. The advisory panel also recommends making maximum use of the existing natural gas infrastructure and believes that 50 stations can be established in California by the year 2010. Phase II plans for 250 hydrogen fueling stations which, in urban areas, could be accessible within 5 minutes. Bridging stations would be established between the Bay Area and Los Angeles.

The Blueprint calls for \$53.5 million in funding from the Governor over the next five years for this program. Cost-sharing schemes and incentives for FCVs have been discussed. A major challenge remains in finding ways to sustain the income needed to support the program beyond this time frame. The advisory panel believes that, if the vehicles can be manufactured the infrastructure can be created to meet the need, investment in infrastructure is manageable.

The conclusions concerning the CA H2 Net are as follows:

- The CA H2 Net is a broad initiative for diversifying transportation energy use and for providing environmental and economic benefits.
- The CA H2 Net should be implemented in Phases.
- CA H2 Net will continue to put California in a world class leadership position and position the State for the successful introduction of hydrogen technologies to meet transportation, power generation, and other energy demands in the future.
- The biennial review of the Blueprint will evaluate the pace with which introduction can occur.
- The State-led public-private partnership should begin work to implement the Action Plan.
- The State needs to initiate a funding source.

In response to questions from the Committee members, Dr. Baxter-Clemmons stated:

The auto manufacturers require no convincing that the fuel cell is the future of the vehicle market. One manufacturer forecasts a global approach to the fuel cell vehicle (FCV), in which the basic structure of the FCV would be the same in terms of the frame and fuel cell location, and only the external body would differ—being tailored to each country in which the FCV is sold. This will enable mass production in the largest possible scale and enhance FCV economic attraction. Auto manufacturers have declared they will build a certain number of FCVs, and there is an increasing demand for them in Japan, Germany, Singapore, etc. The incentives created in California will send a message—in particular, to Japan—and although such incentives will not significantly draw down the cost of the vehicle, they will nevertheless assist as mass production capability increases.

The Department of Energy does not believe there is a shortage of the platinum that will be the primary component of the fuel cell, and the amount of platinum needed for a fuel cell decreases exponentially over time as technology improves. Phase III of the Blueprint will establish a basis for broad commercialization, with 20,000 FCVs planned for operation. This is a small percentage of the 20 million cars now driven in California, and some observers believe it will be three decades before the benefits of the Blueprint become manifest. Nevertheless, if the approach to a hydrogen transportation system is not started now, it will never come to fruition.

The history of alternate fuel and electric vehicles has been variously assessed. Electric vehicles still have a rather limited range, and General Motors recently held a symbolic “funeral” for its electric vehicle. Although hydrogen power requires an additional step in which electricity is used to produce hydrogen, never before have all of the stakeholders—environmentalists, car and fuel companies, and government—agreed on a technology that represents the future. Challenges remain with respect to renewable energy sources that are used to make the hydrogen and whether to use these to support existing infrastructure, the power grid or other applications.

The extent to which funding can be obtained for the Blueprint, and how hydrogen could be taxed, requires further discussion. A revenue bond has been suggested. The free market impact must also be considered where prices vary per kilogram, depending on the source producing the hydrogen. Transportation costs also factor in, along with taxes and possible renewable fuel subsidy.

Hydrogen stations may be variously used for both stationary and mobile source power, depending on whether the fuel cell is low or high temperature through electrolysis. Hydrogen stations in the early years of the Blueprint will be “delivered hydrogen” and will diversify from that point on.

Air Districts can assist with public education about the Blueprint, both in terms of short- and long-term goals regarding environmental and economic benefits, program safety, the various phases of the approach, and related aspects. Advocacy of more hydrogen fuel stations in the local Air District jurisdiction would be important, particularly in collaborating with fuel companies, local, regional and state government, and fire department staff. The Bay Area AQMD could be a major player in the development of the H<sub>2</sub> CA Net, and Cal-EPA would welcome working with staff.

Dr. Baxter-Clemmons offered to provide further information to Mr. Shanahan regarding cost comparison of a therm of natural gas in a natural gas vehicle in comparison with the same therm of natural gas delivered down the H<sub>2</sub> CA Net in order to produce hydrogen, and get it to a hydrogen fueling station. References and diagrams can be found in the report issued on the Internet (cf. p. 14, Volume I).

The cost of using bio-gas for vehicles, which occurs in Sweden, is decreasing, but it is not at a point at which it is cost-competitive. The H2 CA Net does not want to abandon near-term options for alternative fuels and vehicles. The approach to FCV's is not exclusive, and the societal benefits will increase as 20,000 such cars are on the road by the year 2015. If society wants hydrogen fuel as the basis for its transportation, it will have to start now and plan for the long-term.

5. **Committee Member Comments/Other Business.** Mr. Dawid commended the minutes from February 9, 2005 meeting for their accuracy and detail, and inquired as to a possible referral from the Board of Directors to the Advisory Council on diesel emission at ports. Peter Hess, Deputy Air Pollution Control Officer, clarified for the Committee that this matter had been referred to another Committee of the Governing Board.
6. **Time and Place of Next Meeting.** 9:30 a.m., Wednesday, June 8, 2005, 939 Ellis Street, San Francisco, California 94109.
7. **Adjournment.** 2:20 p.m.

James N. Corazza  
Deputy Clerk of the Boards

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

**DRAFT MINUTES**

Advisory Council Technical Committee Meeting  
9:30 a.m., Monday, April 13, 2005

- 1. Call to Order – Roll Call.** Chairperson Hayes called the meeting to order at 9:32 a.m.  
Present: Stan Hayes, Chairperson, Sam Altshuler, P.E., William Hanna, Norman A. Lapera, Jr., Brian Zamora, Advisory Council Chair (ex officio). Absent: Diane Bailey, Louise Bedsworth, Ph.D., Bob Bornstein, Ph.D., John Holtzclaw, Ph.D.
- 2. Public Comment Period.** There were no public comments.
- 3. Approval of Minutes of February 7, 2005.** Mr. Altshuler requested that in line ten of paragraph one on page four, “heat” be inserted before “islands,” and he moved approval of the minutes as amended; seconded by Mr. Hanna; carried unanimously.
- 4. Update on the District’s Community Air Risk Evaluation (CARE) Program.** Janet Stromberg, CARE Program Manager, stated that the District will contract with Sonoma Technologies, Inc., to develop toxic air contaminant (TAC) emission inventory/emission density maps for the Bay Area. These will include an inventory of annual average TAC emissions from area, point- and on-road motor vehicle sources, and weight TAC emissions according to their toxicity. These maps should be completed within three months of the date the contract is signed. District staff is also receiving training in graphical interface system (GIS) mapping, in order to augment in-house capability.

The District is also working to better understand exposures to TACs through measurements and monitoring. It will also add two canister samplers in the neighborhood selected for a cumulative risk assessment pilot project and compare the data gathered with data from the broader emission monitoring network. The goal is to improve the ability to identify ambient diesel particulate (PM).

Attempts to improve the identification of diesel PM are underway. Chemical mass balance analyses show that most anthropogenic PM<sub>10</sub> and PM<sub>2.5</sub> derive from burning wood or fossil fuels. Geological dust, and tire and break wear are small contributors to PM<sub>10</sub> and PM<sub>2.5</sub>. Peak PM concentrations occur in winter due to meteorological conditions conducive to ammonium nitrate production and wood combustion. Carbonaceous PM accounts for about half of peak PM<sub>10</sub> and PM<sub>2.5</sub> and also annual PM<sub>2.5</sub>. Ammonium sulfate is a significant contributor to annual PM<sub>2.5</sub> but only a small contributor to peak concentrations of PM.

Carbon 14 analysis is being used to distinguish the amount of new and old carbon present in a PM sample. The results from 20 samples taken on five separate days suggest that PM from fossil fuel combustion is much lower than previously thought. New techniques developed by Desert Research Institute (DRI) and CalTech, which speciate hydrocarbons for hopanes and steranes, will be used to distinguish gasoline and diesel PM from other fossil fuel carbon. Certain polyaromatic hydrocarbons (PAHs) are found in greater quantities in gasoline PM than in diesel, while certain polar organics provide markers for wood burning and cooking. These will be identified in the speciation.

In reply to Committee member questions, Ms. Stromberg, Peter Hess, Deputy Air Pollution Control Officer, and Gary Kendall, Technical Division Director, made the following points:

- the CARE program will conduct a cumulative risk analysis for a pilot project neighborhood, and its Task Force will provide input for identifying criteria for a pilot neighborhood. These will be combined with the data from the TAC emission maps and a final selection will be made.
- the best available science will be used in assessing concentrations of diesel PM in ambient air. DRI is confident that new markers have been identified for diesel PM in its hydrocarbon speciation. Staff is in the process of discussing additional research projects with DRI.
- staff has tracked measurements obtained during wildfires to distinguish peak versus annual PM concentration. The field of measurement and analysis is expanding, and next week a major conference on this subject is taking place in San Francisco with many well-known experts. A focus on “nano-particulates” is developing in this field.
- the choice of a pilot neighborhood will include not only potential regulatory action that may be taken on a source to reduce TACs, but also creative approaches beyond regulation, and the availability of grant money will provide for the opportunity. The District will seek legislation to obtain additional regulatory authority. The recommendation on which neighborhood to select will be presented to the Council before a decision is made. It is anticipated that the decision could be made some time in the fall of this year.
- communication and public outreach will be a critical component of the CARE program.
- the staff report, distributed at each Committee member’s place, entitled “Sources of Bay Area Fine Particles: A Chemical Mass Balance Analysis,” dated April 2005, is preliminary. When it is near completion, staff will present it to the Council with a more detailed technical focus. Mr. Altshuler’s observations that lube oil has unique markers, and that referring to the coefficient of haze when a filter contains ammonium nitrate, are useful.

**5. Continuing Review of Climate Change Issues.** Committee Chair Hayes presented “Management of Greenhouse Gases: Recent Developments.” He noted that the greenhouse effect is one in which solar radiation passes through the clear atmosphere and is absorbed by the earth’s surface and warms it. Some of this infrared radiation is absorbed and re-emitted by the greenhouse gas molecules and the direct effect is the warming of the earth’s surface and the troposphere. A temperature plot going back 1,000 years—with estimates prior to 1902 based on tree rings and ice core sampling and instrumental data thereafter—shows significant temperature increases since the 1970s, and particularly since 2000. Thermometer readings from 1860 to 2000 confirm this trend.

Six greenhouse gases are the subject of the Kyoto protocol: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride, although not all of these are of equal potency as greenhouse gases (GHGs): the latter being 23,900 times as potent as the first. In 2000, 83% of emissions of GHGs in the US were carbon dioxide, with methane at 9%, nitrous oxide at 6% and hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride at 2%. For carbon dioxide, the energy industry contributes 35%, transportation 26%, manufacturing and construction 12%, commercial, institutional and residential 9%, agriculture 7%, industrial processes 4%, fugitives from fuel production 3% and waste 3%. More than 50% of GHGs in the US were emitted by the electric power production industry. From 1990 to 2000, there is a continual increase in carbon dioxide emissions from the commercial, residential, transportation and industrial sectors.

The Kyoto Protocol establishes binding limits for 38 developed countries to reduce GHGs from 2008 to 2012 by 5% relative to a baseline developed in 1990. To be valid, the Kyoto Protocol required ratification by 55 governments, within which the ratifying governments included developed countries representing at least 55% of that group's 1990 carbon dioxide emissions. This occurred when Russia ratified the Kyoto Protocol in November of last year. The Protocol took effect February 16, 2005, affecting 126 nations. Only four industrialized countries have not ratified the Kyoto Protocol. These are: Australia, Liechtenstein, Monaco and the United States.

The European Union (EU) thought the Kyoto Protocol would be approved and moved forward on its own. Now every one of 30,000 stationary sources in the EU must have an operating permit that limits GHG emissions. This covers about 45% of the carbon dioxide emissions in the EU. Penalties for non-compliance range from 40 to 100 euros per ton of carbon dioxide emitted. National allocation plans were established March 31, 2004 indicating how the reduction in GHG emissions would be allocated. During 2005-2007, 40 euros per tons will be assessed for violating the carbon dioxide emission allowance, and between 2008 and 2012 it will be 100 euros per ton.

In the United States, a Global Climate Change Initiative by the Bush Administration has selected to cut GHG "intensity" by 18% over the next 10 years. Improved GHG registry information is being sought, and will protect transferable GHG emissions reduction credits. Some voluntary initiatives for GHG emissions reporting and reduction include an internal trading program sponsored by BP Amoco and Shell; the Chicago Climate Exchange, with 14 founding members including American Electric Power, DuPont, Ford, International Paper, Motorola and Chicago; a Business Roundtable with members agreeing to measure annual GHG emissions, then publicly report the total and reduce them by a certain amount; and a Climate Group Survey comprised of 22 major corporations, 143 cities, 10 state and 6 countries. Five corporations reduced GHGs by at least 60% and saved a combined \$5.5 billion through energy efficiency, fuel switching and reduced waste output.

There are several state and regional programs for voluntary emissions registers and reductions including the California Climate Action Registry. There is also a Regional Greenhouse Gas Initiative in nine northeast states involving development an emission cap and trade program for carbon dioxide from power plants by April 2005. Other programs include California motor vehicle GHG emission standards and their possible adoption by seven other Northeast states; as well as a subsequent lawsuit against six electric utilities regarding regulation of carbon dioxide. Also, the McCain Lieberman bill (S 139) was rejected when first presented by a vote of 97-0. However, it was defeated more recently but by a much closer margin of 53 to 47. Its advocates believe that, with persistence, it will eventually pass.

What is particularly at stake for companies is that they will experience an increase in energy costs as a percentage of operating costs increase with the transition from coal to natural gas, which may consume 10 - 15% of operating profits, with corresponding impacts on stock prices.

There is considerable linkage between GHG emissions and regulated criteria pollutants. Most GHGs derive from fuel combustion, and reductions in fuel combustion reduce emissions of nitrous oxide (NOx) and volatile organic compounds (VOCs), as well as methane. There are measures that aim to reduce ozone, particulates, and air toxics but also results in GHG emission reductions. Air pollution control measures which have broad applicability are energy conservation, increases in energy efficiency, motor vehicle emissions reductions, vehicle emission standards, transportation control measures, land-use planning and zoning, smart growth, air quality elements in general plans, traffic and roadway measures, public transit, congestion relief measures, and carpool lanes.



There are emerging areas in which an Air District's role in GHG emission management may be discerned. Staff is developing a list of 24 areas in which to reduce GHGs, including adoption of a resolution on global warming, development of a GHG emission inventory, various levels of inter-agency cooperation, public education, grants and funding, and development of model global warming language for inclusion in the air quality elements of local general plans.

Under the Kyoto Protocol, emission credits may be created by sponsoring projects that reduce GHGs, and there are a wide variety of opportunities for doing so that also afford contexts for aligning fiscal and self-interest. Emission reductions created in one of the countries that has ratified the Protocol may be banked. The California Climate Action Registry banks and credits emission reductions, and although a mandatory program is not in place in this country, the actions now taken to reduce GHGs might be able to be folded into the baseline.

Deputy Air Pollution Control Officers Peter Hess and Jean Roggenkamp inquired if the Committee might endorse a broad conceptual approach in which staff would draft a resolution on Climate Change for consideration by the full Council at its May 11, 2005 Regular Meeting. The text would identify links between criteria pollutant regulation, public health and reduction in GHG emissions.

Chairperson Hayes called for discussion on concepts that staff might find useful in composing the text. Mr. Altshuler opined that GHG-related criteria could be built into the grant criteria process. Moreover, a stamp of public health protection could be affixed to GHG emissions with the implication that they be treated like criteria pollutants. GHG emissions affect the environment, which also affects health—in particular, the connection between increased emissions of GHGs and increases in ambient temperature, which in turn increase ozone formation and energy demand. In addition, wars are fought over energy sources to which GHG emissions are linked. Mr. Hanna moved that the Committee endorse the proposal that staff draft a resolution on Climate Change for consideration by the Council on May 11; seconded by Mr. Altshuler; carried unanimously.

Chairperson Hayes inquired as to the status of the list of 24 GHG emission reduction measures. Ms. Roggenkamp replied that the list referred to in the February 7 Technical Committee meeting was preliminary, and when it is further edited, it will be presented to the Committee for review.

6. **Committee Member Comments/Other Business.** Mr. Altshuler distributed a brochure entitled "Something Special in Sunnyvale" featuring a natural gas refuse truck with low emissions.
7. **Time and Place of Next Meeting.** The Committee agreed on two possible dates, to be determined after consultation with Air Quality Planning Committee (AQPC) Chair Holtzclaw: (a) Wednesday, June 8, 2005 at 9:30 a.m., joint meeting with the AQPC, or (b) Tuesday, June 7, 2005 at 9:30 a.m., Technical Committee only, 939 Ellis Street, San Francisco, CA 94109.
8. **Adjournment.** 11:00 a.m.

James N. Corazza  
Deputy Clerk of the Boards

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

**DRAFT MINUTES**

Advisory Council Public Health Committee Meeting  
1:30 p.m., Tuesday, April 18, 2005

1. **Call to Order – Roll Call.** Chairperson Torreano called the meeting to order at 1:33 p.m.  
Present: Victor Torreano, Chair, Cassandra Adams, Elinor Blake, Jeffrey Bramlett, Linda Weiner.
2. **Public Comment Period.** There were no public comments.
3. **Approval of Minutes of February 15, 2005.** Ms. Adams moved approval of the minutes; seconded by Mr. Bramlett; carried unanimously.
4. **Indoor Air Quality: A California Air Resources Board (CARB) Perspective.** Peggy Jenkins, Manager, CARB Indoor Exposure Assessment Section Research Division, stated that CARB staff recently made a presentation on indoor air quality (IAQ) to the Board of Directors of CARB. The report noted that there are numerous sources of indoor air pollutants, including air cleaners such as ozone generators, biological contaminants such as mold, building materials and furnishings which contain formaldehyde, combustion appliances such as gas stoves, environmental tobacco smoke, soil that contains radon and water with chlorinated solvents, architectural coatings with volatile organic compounds (VOCs), consumer products, household and office equipment, and pesticides.

California adults and teenagers spend 87% of their time indoors, while young children spend a bit more time outdoors than adults. Faculty at the University of California at Berkeley have calculated that emissions from indoor sources emitted in a home or a school building have a thousand times greater likelihood of being inhaled than emissions in ambient air from industrial sources.

The health effects associated with indoor air pollution include asthma, allergies, cancer, premature death, increased heart and respiratory disease, and irritants and other effects. A report in the year 2000 on asthma and exposures confirmed known indoor triggers of asthma, and found new triggers such as high levels of nitrous oxide and also identified possible triggers in formaldehyde and fragrances. More recent studies have also focused on VOCs as possible asthma triggers.

The CARB Indoor Exposure Assessment Section Research Division has produced a preliminary estimate on the potential cancer burden from air toxics in California annually by source: 375 deaths annually from environmental tobacco smoke, 250 from indoor toxic air contaminant, and 375 from outdoor toxic air contaminant sources such as diesel exhaust particles and other sources.

While outdoor particulate matter (PM) is associated with severe respiratory and cardiovascular health effects, a corresponding amount of research has not been conducted on the causal relationship of indoor emissions to health effects. Nevertheless, the general perspective is that indoor sources do contribute to respiratory and cardiovascular health effects. Indoor sources of air pollution contain carbon monoxide which is capable of producing death- and flu-like symptoms.

Indoor sources of air pollution also emit nitrous oxide and ozone which can cause lung damage and respiratory disease. Communicable diseases are also transmitted indoors, and other health effects include irritant effects and sick building syndrome.

Excluding PM, the costs of indoor air pollution in California are estimated at \$45 billion annually, with \$36 billion in premature deaths; \$8.5 billion in lost worker productivity; and \$0.6 billion in other medical costs.

Principle categories of IAQ improvement include source control, ventilation, proper building operation and maintenance, professional training, public education and air cleaning devices. The status quo on IAQ regulations and guidelines features regulations and guidelines spread out among a number of agencies. Workplace standards are regulated by the California Occupational Safety and Health Administration which has adopted some regulations on ventilation. The California Energy Commission has also adopted some ventilation requirements, particularly with regard to the amount of outdoor air applied to a building. In 1995, AB 13 was adopted which established the state's smoke-free workplace requirement. The federal Consumer Products Safety Commission regulates consumer products, although its greatest concern is safety and safe product operation. When it concerns air quality, a labeling requirement comes into play. CARB also regulates consumer products to some extent, as do air districts, when it comes to products that have an impact on outdoor air quality. There are also some indoor air quality benefits associated with this type of regulation. However, no single agency is designated to oversee indoor air quality. There are voluntary guidelines from government agencies, industry and professional groups, with some success. The American Society of Heating, Refrigerating and Air-Conditioning Engineers has developed standards for ventilation; the Carpet and Rug Institute has also developed some product guidelines with the encouragement of the Environmental Protection Agency.

In its report to the Legislature, CARB set forth a prioritization of indoor air pollution by source categories rather than by specific pollutants. Air cleaners—particularly the ones that generate ozone, biological contaminants, building materials and furnishings, combustion appliances, such as gas stoves that are not vented, environmental tobacco smoke, and radon (which has a high cancer risk and inextricably interwoven with sources of tobacco smoke) constitute the major sources. Less than 1% of homes in California exceed any applicable standards for radon concentrations.

The medium priority indoor air pollutant source categories requiring mitigation are architectural coatings, consumer products and personal care products, household and office equipment and appliances, and pesticides. Many of these are already under some level of regulation and their emissions are comparatively lower than those in the high source priority ranking.

With regard to indoor air pollution mitigation, CARB has suggested that such measures include the creation of an indoor air quality management system, establishment of emission limits, requiring emissions testing of products as requisites for equipment procurement, making children's health a top priority, development of clearer indoor air quality guidelines, amendment of building codes, funding public outreach and education programs, conducting more research especially on indoor effects of particulate matter and turpines that add fragrance to consumer products, and funding of innovative technologies for indoor air quality management. CARB's clean air technology program for ambient air has been successful in helping companies with new products and ideas by bringing them into commercialization and can be geared to indoor applications as well.

Mitigation measures for indoor air pollution in schools include urging the implementation of all 16 recommendations from the California Portable Classrooms Study. The District might consider partnering with schools on IAQ with a focus on integrating indoor with outdoor air issues as well as augmenting the Tools for Schools program and improving staff training for it. The promotion of “best practices” for design, construction and maintenance for schools could benefit from District input as well. CARB may approach the District for training programs on indoor air quality in its development of training on indoor air.

In assessing the proven benefits of improving IAQ, CARB has reviewed some case studies, including a healthy home program in Seattle with an asthma intervention program that provided informational materials to low income groups. The program significantly reduced asthma medical costs over a four-year period, lowered inhaler use in elementary schools by 50% and improved attendance by 5%.

CARB’s recent IAQ report was approved by the Board of Directors of CARB last month, and should be forwarded to the Governor through the California Environmental Protection Agency. The State Legislature will hold a hearing on IAQ in May of this year.

With regard to “air purifiers” which are really portable ozone generators, studies show that these emit harmful levels of indoor ozone greater than the ambient standard with normal use. These have been marketed aggressively in California, often with inaccurate advertising, suggesting that these devices eliminate indoor pollutants and airborne microbes. The indoor odor mitigation attributed to these is due to the fact that ozone deadens the sense of smell. Purifiers equipped with sensors that limit ozone concentrations to 50 parts per billion cannot guarantee the longevity of such sensors. These devices counter reductions in ambient ozone levels. The Department of Health Services issued a press release in 1997 on these devices, but it had little effect. CARB has published the names of ozone generator brands to alert the public on ozone emissions.

CARB believes that ozone generators pose an unnecessary public health risk and has submitted an ozone generator mitigation plan to the Attorney General’s Office, which is considering options for legal action. Additional measures in the plan include development of public and professional guidance materials, and an outreach program, as well as working with air cleaner manufacturers to develop test protocols for air cleaners and establish emission limits.

The Air District might consider becoming involved with the ozone generator issue as well as with encouraging implementation of mitigation measures for schools. Involvement with public outreach efforts on IAQ is also recommended for the District, given its existing public outreach network and familiarity with residents and institutions in the Bay Area region. The Advisory Council’s own suggestion that an IAQ summit for the Bay Area region be held is excellent. CARB sponsored a Symposium on IAQ in the year 2000. The District might also consider becoming more involved with training on building filtration systems, and loaning measurement devices to schools and homes for the care of the elderly.

In reply to questions and suggestions from Committee members, Ms. Jenkins noted:

- A large bibliography of studies on IAQ is posted on the CARB website, and additional materials will be e-mailed to the Advisory Council through the Deputy Clerk.

- The District could be encouraged to issue correspondence to magazines discouraging advertisement of ozone generating air purifiers, and the Advisory Council might consider adopting such a recommendation for forwarding to the Governing Board.
- Legislation proposed three years ago would have given CARB authority to regulate IAQ but was unsuccessful. The Portable Classroom Study has recently generated two proposed bills.
- CARB staff can make a presentation on its recent IAQ report to such groups as the American Institute of Architects, Pacific Gas & Electric and other building related networks. The presentation can be tailored to focus on certain fields depending upon the audience. For example, for architectural groups there should be some focus on outdoor coatings.
- Most product labeling requirements concern emissions to outdoor air—such as ones governing volatile organic compounds—and are not specific to IAQ. CARB would like to require manufacturers to test their products and publish the data on labels: this would allow for product comparison and subject improvement in procurement selection. At present, such labeling would be purely voluntary as there is no authority to require it. Moreover, manufacturers do not want to pay for the cost of the test and if the product does not meet a given standard they would have to engage in product reformulation, which would pose an additional cost.
- Indoor ozone generators have created an entire market based on vague, and often inaccurate, science. The strength of regulatory agencies in IAQ management is that they can fund research and conduct public education. There are alternatives to ozone generators for indoor air purification: these include HEPA filters, and electrostatic precipitators and ionizers.
- CARB's Stationary Source Division is handling the issue of the two different resins for indoor and outdoor plywood particle board. The resin used in the indoor plywood emits more formaldehyde than what is used for the outdoor plywood. CARB believes that the resin used in outdoor applications would be acceptable for use in indoor applications as well.

**5. Committee Member Comments/Other Business.** There was none.

**6. Time and Place of Next Meeting.** 1:30 p.m., Monday, June 13, 939 Ellis Street, San Francisco, CA 94109.

**7. Adjournment.** 3:04 p.m.

James N. Corazza  
Deputy Clerk of the Boards

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Resolution No. 89**

**A Resolution Encouraging the Bay Area Air Quality Management District to Address  
Climate Change**

WHEREAS, there is overwhelming scientific evidence that shows concentrations of greenhouse gases in the atmosphere are increasing steadily, and that the Earth's surface and ocean temperatures are rising; and

WHEREAS, most scientists agree that anthropogenic sources of greenhouse gases largely account for these increases and are causing the earth's climate to change and that conflicting views are more about the rate of change and the ultimate results, rather than questioning the underlying premise of human-caused changes to climate; and

WHEREAS, climate change is expected to produce a number of negative public health effects such as extended blooming seasons that will lead to increased formation of allergens including pollen and fungal spores that contribute to asthma, and increased heat expected to lead to higher mortality rates during prolonged periods of high temperatures; and

WHEREAS, global climate change could have significant effects on local weather conditions such as increases in temperatures, the extension of warm weather seasons, changes in wind and precipitation patterns, increases in severity of storms, and changes to other weather variables that have important effects on our local air quality and public health and welfare; and

WHEREAS, ground level ozone and other pollutants are formed due to the photochemical reactions between nitrogen oxides and volatile organic compounds in the presence of sunlight and heat, and as climate change causes temperatures to increase, the emissions of ozone precursors and photochemical reactions will also increase; and

WHEREAS, the Bay Area is a non-attainment area for the national 8-hour ozone standard and the state 1-hour and 8-hour ozone standards, and the Bay Area Air Quality Management District has dedicated significant resources to reducing ground level ozone in the region in order to protect public health, and climate change will adversely impact those efforts; and

WHEREAS, the Bay Area is also a non-attainment area for state particulate matter standards and many sources, specifically fossil fuel combustion, that lead to greenhouse gas emissions also contribute significantly to the region's particulate matter burden; and

WHEREAS, in addition to ozone precursors and particulate matter, fossil fuel combustion also causes emissions of toxic air pollutants and other criteria pollutants that the Bay Area Air Quality Management District regulates in order to protect public health; and

WHEREAS, reducing dependence on fossil fuels has the co-beneficial effect of reducing criteria air pollutants, toxic air contaminants, and greenhouse gas emissions from fossil fuel combustion as well as providing energy independence; and

WHEREAS, the transportation sector accounts for the largest source of greenhouse gas emissions in the region, and the Bay Area Air Quality Management District is already promoting efforts to reduce emissions from mobile sources through lower-emission vehicle incentive programs, transportation control measures, and smart growth policies, and these efforts also reduce greenhouse gas emissions; and

WHEREAS, the Bay Area Air Quality Management District also regulates emissions from energy generation, refineries, and chemical plants in the region, which are also significant sources of both criteria pollutants and greenhouse gases and the District is already promoting energy conservation and efficiency measures that have co-benefits for greenhouse gas reductions; and

WHEREAS, the Bay Area Air Quality Management District is charged with improving public health in the region with respect to air quality and by taking a leadership role in addressing greenhouse gas emissions the District will assist the core goal of achieving health-based air quality standards as well as reduce the regional contribution to global climate change; and

WHEREAS, there are numerous municipal and community- based climate change programs already underway in the region and supporting these efforts will provide additional opportunities to strengthen these programs, stimulate additional activities, and encourage further relationships between the Bay Area Air Quality Management District and its stakeholders.

NOW, THEREFORE, BE IT RESOLVED that the Advisory Council of the Bay Area Air Quality Management District encourages the Bay Area Air Quality Management District Board of Directors to address climate change and climate protection through the District's activities, including outreach and education, data collection and analysis, technical assistance, and leadership and support for local efforts in the Bay Area to reduce greenhouse gas emissions that contribute to climate change.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 13, 2005

Re: Climate Change and Protection Resolution

RECOMMENDED ACTION

Consider recommending that the Board of Directors adopt a resolution to create a Bay Area Climate Protection Program.

BACKGROUND

The world's scientific community agrees that the Earth's climate is changing due to human activity. Respected agencies such as NASA, the National Academy of Sciences, the National Oceanic and Atmospheric Administration, the International Panel on Climate Change, and other eminent scientific bodies in North America, Europe and Asia have issued reports documenting their analysis to support this conclusion. Some of their observations include:

- Average global surface temperature increased more than 1° F over the past 100 years, with a 9° F average increase in the polar regions.
- 1990 – 2000 was the hottest decade of the 20th century – perhaps even the millennium – and 2001, 2002 and 2003 were three of the hottest years ever recorded.
- Concentrations of carbon dioxide (CO<sub>2</sub>) in the atmosphere have been increasing. The current concentration is approximately 375 ppm. Analyses of ice core samples show that this is the highest level in the past 420,000 years. Evidence shows that the greatest CO<sub>2</sub> concentration increases have occurred since about 1750, which coincide with the beginning of human industrialization and widespread use of fossil fuels. The rate of increase has also been on the rise – CO<sub>2</sub> concentrations today are roughly 12 times higher than they were in 1900.
- Concentrations of other greenhouse gases, such as methane and nitrous oxides, have also been increasing. These gases are also created by human activities.

There is still uncertainty about the exact rate and effects of climate change in the future, and a number of variables can impact the pace of the changes, the severity of the impacts, and the regions that would be affected most acutely. However, most scientists agree that because greenhouse gases persist in the atmosphere for extended periods of time (CO<sub>2</sub> remains in the atmosphere for 100 years), the general surface warming trend, and associated sea level rise due to the expansion of water as it warms, is anticipated to continue well into the next century. Scientists warn that while we urgently need to curb greenhouse gas emissions, we must also prepare for the adverse



consequences of the warming trend already underway. One of these consequences is the potentially significant impact of climate change on the District's core mission of attaining air quality standards.

## DISCUSSION

Certain chemical precursors, such as nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs), react in the atmosphere to produce ozone and ammonium nitrate (a form of particulate matter). Higher temperatures increase precursor VOC emissions (from evaporation of petroleum-based products and from biogenic sources), and also increase photochemical reactions forming ozone. Continued warming threatens to potentially erode air quality improvements made in the Bay Area in the past 50 years and may make it more difficult for the region to meet ozone and particulate matter standards.

Reports from STAPPA/ALAPCO, U.S. EPA, and other organizations highlight the co-benefits of "harmonizing" existing air quality rules, regulations, and programs that address criteria and toxic air pollutants with the goals of reducing greenhouse gas emissions. Existing District rules and programs are already reducing greenhouse gas emissions but those reductions are not currently being quantified and documented. For example, programs to reduce vehicle miles traveled (VMT) and energy efficiency measures reduce NO<sub>x</sub> and PM emissions because they reduce emissions from fossil fuels and they also reduce emissions of greenhouse gases.

California has taken the lead in curbing greenhouse gases by setting new emission standards for light duty vehicles to go into affect in the 2009 model year. This new standard was the result of state legislation (AB1493 - Pavley) that directed ARB to set regulations that would achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions from motor vehicles. Experts expect that in the coming years other states will adopt these standards and additional state and federal regulations addressing greenhouse gases will be developed.

There are numerous climate protection activities currently underway at the local level throughout the region. Supporting these efforts could help to build synergies between programs and increase their effectiveness, provide opportunities for the District to collaborate with local stakeholders, and stimulate additional activities with regional impacts. The District could undertake climate protection activities such as:

- Continue participating in initiatives in Sonoma County, Marin County, the Silicon Valley, and individual Bay Area cities to quantify and reduce greenhouse gas emissions through the ICLEI Cities for Climate Protection Program.
- Continue collaborating with the California Climate Action Registry.
- Preparing an inventory of region-wide greenhouse gas emissions.
- Hosting a regional conference to help coordinate local climate protection initiatives and create guidance for new initiatives, such as a model ordinance.
- Providing technical assistance to local stakeholders and creating an information clearinghouse to assist local initiatives.

- Developing public education and outreach campaigns about climate protection, energy efficiency, and ways to reduce greenhouse gas emissions at home and in the workplace.
- Creating a curriculum for students in the region about the science of climate change and opportunities to reduce greenhouse gas emissions.

The Advisory Council Technical Committee has discussed climate change in depth, and on May 11, 2005 the Advisory Council unanimously passed a resolution encouraging the District Board of Directors to address climate change. Because this is a new area of focus for the District, staff is recommending that the Board of Directors acknowledge this new step by adopting a resolution that establishes a Climate Protection Program.

#### BUDGET CONSIDERATION/FINANCE IMPACT

The proposed FY 2005/2006 budget includes a new program (#608) reflecting District climate change activities. All personnel costs in program #608 represent existing staff. \$60,000 is proposed for costs associated with hosting a regional conference and conducting public education campaigns.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer

Prepared by: Ina Shlez  
Reviewed by: Henry Hilken

Attachment

## **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

**Resolution No. \_\_\_\_ 2005**

### **A Resolution Establishing the Bay Area Air Quality Management District's Climate Protection Program**

WHEREAS, there is overwhelming scientific evidence that shows concentrations of greenhouse gases in the atmosphere are increasing steadily, and that the Earth's surface and ocean temperatures are rising;

WHEREAS, most scientists agree that anthropogenic sources of greenhouse gases largely account for these increases and are causing the earth's climate to change and that conflicting views are more about the rate of change and the ultimate results, rather than questioning the underlying premise of human-caused changes to climate;

WHEREAS, these scientists represent respected agencies such as NASA, the National Academy of Sciences, the National Oceanic and Atmospheric Administration, the International Panel on Climate Change, and other eminent scientific bodies in North America, Europe and Asia;

WHEREAS, scientific analysis has shown that average global surface temperature increased more than 1° F over the past 100 years, with a 9° F average increase in the polar regions, and that 1990 – 2000 was the hottest decade of the 20th century, and 2001, 2002, and 2003 were the hottest years ever recorded;

WHEREAS, scientific analysis has also shown that concentrations of carbon dioxide (CO<sub>2</sub>) in the atmosphere have been increasing and the current concentration is the highest level in the past 420,000 years, and the greatest CO<sub>2</sub> concentration increases have occurred since about 1750, which coincide with the beginning of human industrialization and widespread use of fossil fuels, and the rate of increase has also been on the rise in the last century;

WHEREAS, concentrations of other greenhouse gases, such as methane and nitrous oxides, have also been increasing, and these gases are also created by human activities;

WHEREAS, global climate change could have significant effects on local weather conditions such as increases in temperatures, the extension of warm weather seasons, changes in wind and precipitation patterns, increases in severity of storms, and changes in other weather variables that have important effects on our local air quality and public health and welfare;

WHEREAS, ground level ozone and other pollutants are formed due to the photochemical reactions between nitrogen oxides and volatile organic compounds in the presence of sunlight and heat, and as climate change causes temperatures to increase, the emissions of ozone precursors and photochemical reactions will also increase;

WHEREAS, the Bay Area is a non-attainment area for the national 8-hour ozone standard and the state 1-hour and 8-hour ozone standards, and the Bay Area Air Quality Management District has dedicated significant resources to reducing ground level ozone in the region in order to protect public health, and climate change will impact those efforts;

WHEREAS, the Bay Area is also a non-attainment area for state particulate matter standards and many sources, specifically fossil fuel combustion, that lead to greenhouse gas emissions also contribute significantly to the region's particulate matter burden;

WHEREAS, in addition to ozone precursors and particulate matter, fossil fuel combustion also causes emissions of toxic air pollutants and other criteria pollutants that the Bay Area Air Quality Management District regulates in order to protect public health;

WHEREAS, reducing dependence on fossil fuels has the co-beneficial effect of reducing criteria air pollutants, toxic air contaminants, and particulate matter and greenhouse gas emissions that contribute to climate change from fossil fuel combustion as well as providing energy independence;

WHEREAS, AB 1493 (Pavley) directed ARB to set regulations that would achieve the maximum feasible and cost-effective reduction of greenhouse gas emissions from motor vehicles and ARB adopted a new emissions standard for light duty vehicles to go into affect in the 2009 model year;

WHEREAS, the transportation sector accounts for the largest source of greenhouse gas emissions in the region, and the Bay Area Air Quality Management District is already promoting efforts to reduce emissions from mobile sources through lower-emission vehicle incentive programs, transportation control measures, and smart growth policies, and these efforts also reduce greenhouse gas emissions and the use of fossil fuels;

WHEREAS, the Bay Area Air Quality Management District also regulates emissions from energy generation, refineries, and chemical plants in the region, which are also a significant sources of both criteria pollutants and greenhouse gases and the District is already promoting energy conservation and efficiency measures that have co-benefits for greenhouse emission reductions;

WHEREAS, the Bay Area Air Quality Management District is charged with improving public health in the region with respect to air quality, and by taking a leadership role in addressing greenhouse gas emissions the District will assist the core goal of achieving health-based air quality standards as well as reduce the regional contribution to global climate change;

WHEREAS, there are already a number of municipal and community- based climate change programs already underway in the region such as efforts in Sonoma and Marin Counties, the Silicon Valley, and the City of Oakland to inventory emissions and set reduction targets, and continuing support of these efforts will provide additional opportunities to strengthen these programs, stimulate additional activities, and encourage further relationships between the Bay Area Air Quality Management District and its stakeholders.

NOW, THEREFORE, BE IT RESOLVED that the Bay Area Air Quality Management District Board of Directors establishes a Bay Area Climate Protection Program to address climate change and climate protection through District activities including outreach and education campaigns, data collection and analysis, technical assistance, hosting a regional conference on climate protection, and support and leadership for local efforts in the Bay Area to reduce emissions that contribute to climate change.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_ 2005 by the following vote of the Board:

AYES:

NOES:

ABSENT:

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Marland Townsend  
Chairperson of the Board of Directors

ATTEST:

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Mark Ross  
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson Townsend and Members  
of the Executive Committee

From: Jean Roggenkamp,  
Deputy Air Pollution Control Officer

Date: May 13, 2005

Re: Joint Policy Committee Update

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

Senate Bill No. 849 established the Joint Policy Committee (JPC) consisting of representatives of the Bay Area Air Quality Management District, the Metropolitan Transportation Commission, and the Association of Bay Area Governments to coordinate regional planning in the San Francisco Bay Area. At the February 4, 2005 meeting of the Executive Committee, Ted Droettboom, Regional Planning Program Director for the JPC, provided the Committee with an initial overview of the JPC, its mandate, and its work program.

DISCUSSION

At the May 20, 2005 meeting of the Executive Committee, Ted Droettboom will provide an update on the activities of the Joint Policy Committee.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jean Roggenkamp  
Deputy Air Pollution Control Officer

FORWARDED: \_\_\_\_\_

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson Townsend and Members  
of the Executive Committee

From: Jeff McKay,  
Interim Director of Administrative Services

Date: May 20, 2005

Re: Status Report on Internal Systems and Controls Audit

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

The Board of Directors at its January 19, 2005 meeting directed staff to solicit bids and execute an agreement to conduct an independent internal systems and controls audit. The audit would access processes and controls within the organization. Gilbert Associates was awarded the contract and work was initiated April 25, 2005.

DISCUSSION

The audit is ongoing; however, steps are in progress to incorporate draft findings into the District's processes.

The following items are complete:

**Internal Control Cycle Narratives:**

- Completed draft narrative for Cash Receipts, Revenue, and Accounts Receivable Cycle
- Completed draft narrative for Cash Disbursements, Expenditures, and Accounts Payable Cycle
- Completed draft narrative for the Capital Assets Expenditure Cycle
- Completed draft narrative for the Grant Administration Cycle

**Internal Control Questionnaires:**

- Completed Internal Control Questionnaire - Budget
- Completed Internal Control Questionnaire - Cash Disbursements
- Completed Internal Control Questionnaire - Cash Receipts
- Completed Internal Control Questionnaire - General
- Completed Internal Control Questionnaire - Government Grants
- Completed Internal Control Questionnaire - Property & Equipment
- Completed Internal Control Questionnaire - Purchasing

The following items remain to be completed:

- Draft Billing narrative to be completed.
- Draft Budget narrative to be completed.
- Internal Control Questionnaire for Revenue to be completed.
- Design audit programs (after receiving the reviewed narrative drafts and forms)
- Test transactions against the policies and procedures.
- Based on the results of narratives, internal control questionnaires, and testing: draft report for management's review.
- Issue the final report, after review by management.

BUDGET CONSIDERATION/FINANCIAL IMPACT

On January 19, 2005, the Board authorized a transfer of \$200,000 from the General Reserve for the internal systems audit and an adjustment to the Districts' approved FY 2004/05 budget.

Respectfully submitted,

Jeff McKay  
Interim Director of Administrative Services

FORWARDED: \_\_\_\_\_



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Office Memorandum

To: Chairperson Townsend and Members  
of the Executive Committee

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 20, 2005

Re: Budgetary Discussion and Direction from the Committee

RECOMMENDED ACTION

Receive and file.

BACKGROUND

Consistency in budgeting can be enhanced with discussion of both revenue-side and expenditure-side planning methods. On the revenue side, an opportunity exists to clarify planning methods relative to Cost Recovery. On the expenditure side, an opportunity exists relative to long term capital planning, and the relation of such capital planning to fund designations.

**Cost Recovery**

State law authorizes the District to assess fees to generate revenue to cover the costs of air quality programs. The District has established, and regularly updates, a fee regulation under these authorities. Currently, approximately one-third of the District's general fund operating budget is derived from fees imposed in accordance with this regulation. From time to time, the District has considered whether these fees result in the collection of a sufficient and appropriate amount of revenue in comparison to the cost of program activities.

In 1999, a comprehensive review of the District's fee structure and revenues was completed by the firm KPMG Peat Marwick LLP. The KPMG study indicated that fee revenue did not nearly offset the full costs of program activities associated with sources subject to fees as authorized by State law. County property tax revenue (and in some years, fund balances) had consistently been used to close this cost recovery gap.

Following the KPMG study, the District approved an across-the-board fee increase of 15 percent – the maximum allowed by law – for fiscal year 1999-00 as a step toward more complete cost recovery. In each of the next five years, the District adjusted fees only to account for inflation (for FY 2004-05, the District also approved further increases in Title V fees, and a new processing fee for renewals of permits to operate).

In 2004, the Board of Directors approved funding for an updated Cost Recovery Study. This study was completed by the firm Stonefield Josephson, Inc. in March 2005. The Stonefield Josephson study indicates that a significant cost recovery gap still exists. For FY 2003-04, fee revenue covered only about 60 percent of program activity costs, leaving a gap of approximately \$13 million to be filled with property tax revenue.

### **Capital Planning and Reserve Designations**

The District currently indicates future plans for Capital spending through designation of reserve funds. The Government Financial Officers Association recommends that decisions on fund balances be made within the context of long term forecasting. The Districts' reserve designations are not currently linked to a long term forecasting process.

### **DISCUSSION**

Staff believes a policy discussion on persistence of Cost Recovery measures and on consolidation of reserve designations with attendant implementation of a five year capital plan will benefit the budgeting process.

### **Cost Recovery**

Staff believes that, as a matter of policy, stationary source fees should be raised in a phased manner over a period of time so that a smaller portion of the District's property tax revenue is needed to close the gap between permit fee revenue and the District's costs allocable to activities related to permitted sources. More property tax revenue could then be used to fund other important initiatives and programs that benefit air quality but that do not have a separate funding source. In order to reduce the cost recovery gap, fee revenue will need to be increased at a rate that exceeds the rate of inflation, as costs can also be expected to increase along with inflation.

For FY 2005-06, staff has proposed fee amendments that would result in an increase in fee revenue of approximately \$1.4 million from projected revenue levels in the current fiscal year, representing an increase of about 7 percent. Under this proposal, the increases in individual fee schedules would be based on the magnitude of the cost recovery gap indicated in the Cost Recovery Study. Fee schedules with the largest cost recovery gaps would be increased by 15 percent; schedules with less significant gaps, along with most administrative fees, would be increased by five percent; schedules with no cost recovery gaps would not be increased. These fee increases will allow the District to address increasing program activity costs, and also fund with property tax revenue important initiatives such as the Community Air Risk Evaluation (CARE) program and the Climate Change program.

Staff recognizes the need to closely monitor the magnitude of the cost recovery gap on an ongoing basis by accurately tracking program activities and fee revenue. Staff intends to enhance existing tracking programs and develop more refined tools for this purpose. In addition, staff believes that measures to improve efficiencies and contain costs must be

pursued on an ongoing basis. Staff will develop a plan and policy proposal to provide guidance in future budget cycles.

### **Capital Planning and Reserve Designations**

The District will be well served by consolidation of proliferating reserve designations and by implementation of a five year capital plan. Use of reserve designations as a default capital planning tool suffers from two disadvantages. First, the reserves do not contain a time component, and second they are poorly suited to the continual additions and changes that capital descriptions entail. In the coming fiscal year, District staff proposes to consolidate reserve designations and initiate a five year capital plan.

### **BUDGET CONSIDERATION/FINANCIAL IMPACT**

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Jeff McKay and Brian Bateman

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
Inter-Office Memorandum

To: Chairperson Townsend and Members  
of the Executive Committee

From: Jeff McKay,  
Director of Information Services

Date: May 20, 2005

Re: Replacement of DataBank and IRIS

RECOMMENDED ACTION

Receive and file

BACKGROUND

The Air District uses unique software applications, DataBank and IRIS, to carry out business processes in Planning, Permitting, Inspection and Emission Inventory.

The Air District first implemented the DataBank application in 1977. This application pre-dates database technology, and stores information in flat files. In 2001 the District implemented the IRIS application, partially relieving Databank of some function. The migration to modern technology must continue for the District to fulfill its mission.

Ongoing presentations to the Executive Committee have described the importance of Content Management in replacement of existing systems. Prior Committee actions have approved a pilot process, and the early steps will be presented.

DISCUSSION

Content Management capabilities include elements familiar from both common business process and from common office desktop functions. The District has identified broadly categorized capabilities that will be added or enhanced as the District moves from its current state to its future state. The mapping of these capabilities to vendor offerings will be part of the vendor selection process for the pilot.

BUDGET CONSIDERATION/FINANCIAL IMPACT

Initial funds for this work are included in the approved 04/05 budget.

Respectfully submitted,

Jeff McKay  
Director Information Services Division

FORWARDED: \_\_\_\_\_

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 23, 2005

Re: Report of the Stationary Source Committee Meeting of May 23, 2005

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee met on Monday, May 23, 2005. The Committee received reports on the following:

- Status Report of Particulate Matter Control Measures;
- Update on the Development of the Refinery Flare Control Rule; and
- Update on the Air Toxics New Source Review Program Rule Development Project.

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

Chairperson DeSaulnier will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer/APCO

Prepared by: Mary Ann Goodley

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson DeSaulnier and Members  
of the Stationary Source Committee

From: Henry Hilken  
Director of Planning & Research

Date: May 16, 2005

Re: Status Report on Particulate Matter Control Measures

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

SB 656 (Sher, 2003) requires ARB and local air districts to take steps to reduce exposure to fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). Pursuant to SB 656, ARB developed and adopted a list of the most readily available, feasible, and cost effective control measures to reduce PM emissions and PM precursor emissions from stationary, area and mobile sources. The ARB list includes 103 regulations and programs existing in California and implemented by ARB and local districts as of January 1, 2004. The District is required to review the ARB list and adopt an implementation schedule for measures appropriate for the Bay Area by July 31, 2005.

Staff has reviewed the PM emission inventory and technical analyses of PM monitoring data to determine the most significant source categories in the Bay Area. Staff has also reviewed the ARB list of candidate control measures. Based on these analyses, staff is developing a draft implementation schedule for public review and, subsequently, for Board consideration.

DISCUSSION

Staff will present a status report on the PM Control Measures, including:

- Summary of SB 656 PM requirements for ARB and the District;
- Overview of staff's evaluation of ARB's list of potential PM control measures;
- Summary of next steps, including schedule for public review of draft implementation schedule, public workshop, and Board hearing.

Respectfully submitted,

Henry Hilken  
Director of Planning & Research

FORWARDED: \_\_\_\_\_

Prepared by: Ina Shlez  
Reviewed by: Jean Roggenkamp

-



BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson DeSaulnier and Members  
of the Stationary Source Committee

From: Henry Hilken  
Director of Planning & Research

Date: May 18, 2005

Re: Update on Refinery Flare Control Rule Development

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

On January 24, 2005, staff provided the Stationary Source Committee with a status report on the development of the refinery flare control rule. Staff subsequently circulated a draft rule for public review and comment.

DISCUSSION

On March 16, 2005 and March 24, 2005 staff conducted public workshops to receive comment on the draft Regulation 12, Rule 12: Flares at Petroleum Refineries. Over 200 people attended the workshops and provided verbal comment. Subsequent to the workshops, twenty comment letters were submitted to the District. The comments represented viewpoints of various organizations, government agencies, and members of the public. Staff has reviewed the comments and is revising the draft rule to address comments and concerns.

At the Stationary Source Committee meeting on May 23, 2005, staff will present an update on the development of the Refinery Flare Control Rule, including a summarization of the following:

- Rule Development Process;
- Comments Received;
- Staff Responses and Potential Rule Revisions; and
- Next Steps.

Respectfully submitted,

Henry Hilken  
Director of Planning & Research

FORWARDED: \_\_\_\_\_

Prepared by: Alex Ezersky  
Reviewed by: Daniel Belik

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Inter-Office Memorandum

To: Chairperson DeSaulnier and Members  
of the Stationary Source Committee

From: Brian Bateman,  
Director of Engineering

Date: May 16, 2005

Re: Status Report on the District's Air Toxics New Source Review Program  
Rule Development Project

RECOMMENDED ACTION

Receive report on proposed Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants, and associated amendments to several other District rules and the Manual of Procedures. A public hearing on these actions has been scheduled for the June 15, 2005 meeting of the Board of Directors.

BACKGROUND

On January 24, 2005, staff provided the Stationary Source Committee with an update on the rule development project involving the District's Air Toxics New Source Review (NSR) program. Background on this rule development project, including activities since the last Committee update, follows.

1. Existing Air Toxics NSR Program

The Air Toxics NSR program was established in 1987 at the direction of the District's Board, and has been implemented based on policies and procedures established by the Air Pollution Control Officer (APCO) after holding workshops and considering public input. The goal of the District's Air Toxics NSR program is to prevent significant increases in health risks resulting from new and modified sources of Toxic Air Contaminants (TACs) based on preconstruction permit review. The program is also intended to reduce existing health risks by imposing updated control requirements when older, more highly polluting, sources are modified or replaced.

The Air Toxics NSR program is a local program; there are no specific State or federal mandates requiring such a program. In California, most of the 35 air districts currently have an Air Toxics NSR program. These programs are all based on the same general framework, although specific program requirements may vary between districts.

The Air Toxics NSR program is a health risk-based program, meaning that the program requirements are based on the results of a health risk assessment (HRA). An HRA is a scientific analysis of the measure of health risk for individuals in the affected population that may be exposed to emissions of one or more toxic substances. The Air Toxics NSR program uses an HRA methodology that was specifically developed for air pollution control programs in California by agencies including Cal/EPA's Office of Environmental Health Hazard Assessment (OEHHA) and the California Air Resources Board (CARB). This methodology is documented in State HRA guideline documents, which have been updated several times since their original publication in 1987.

## 2. Air Toxics NSR Rule Development Project

In 2003, the District proposed to codify the policies and procedures that make up the Air Toxics NSR program by adopting a new District rule (Regulation 2, Rule 5: New Source Review of Toxic Air Contaminants), and a new part of the District's Manual of Procedures. Amendments to several other District rules were also proposed in order to maintain consistency with Regulation 2, Rule 5. The goals of this rule development project were to: (1) update and enhance program requirements primarily to increase conformity with updated State risk assessment and risk management guidelines; (2) improve the legal defensibility of the District's permitting decisions; and (3) increase the clarity and public visibility of program requirements.

The District held a series of workshops in mid-2003 to discuss the Air Toxics NSR rule proposal with interested parties. Workshops were held at the District Office, and at community locations in Richmond, Oakland, San Francisco, and East Palo Alto. The most extensive comments submitted were from the Golden Gate University School of Law Environmental Law and Justice Clinic (ELJC) on behalf of the Environmental Justice Air Quality Coalition, Bayview Hunters Point Community Advocates, and Our Children's Earth Foundation. The California Council for Environmental and Economic Balance (CCEEB) also submitted detailed comments. District staff subsequently met on several occasions with ELJC and their clients, as well as with representatives of CCEEB, in order to clarify and resolve issues. Further work on the rule was delayed for a period of time pending the release of revised HRA guidelines and tools from OEHHA and CARB.

On March 16, 2005, the District issued a revised Air Toxics NSR rule proposal. The revised proposal was made in response to public comments and updates in State HRA guidelines occurring since the original proposal was issued. A public workshop to discuss the revised proposal with interested parties was held on April 8, 2005. Staff also met separately with ELJC and their clients, and with representatives of CCEEB, to further discuss issues. Several changes to the revised proposal were made based on comments received, and a final proposed rule was issued on May 13, 2005.

In January 2005, staff determined that the requirements of CEQA would be most appropriately met for this rule development project by the preparation of an Environmental Impact Report (EIR). On January 26, 2005, a Notice of Preparation of a Draft EIR was issued. The Draft EIR was completed on April 18, 2005. The public comment period on the Draft EIR is currently underway and will end on May 23, 2005.

DISCUSSION

Some of the public comments received suggest that staff's proposed rule is inadequate in that it is based on the traditional incremental risk approach rather than a cumulative risk approach. Staff does not believe that the proposed rule can be based on a cumulative risk approach at this time because the needed policies, tools, and databases are currently not available for that purpose. In addition, existing information indicates that emissions from the new and modified sources that meet the requirements of the Air Toxics NSR program are unlikely to cause, or contribute significantly to, adverse cumulative health effects.

To our knowledge, risk limits or goals for overall cumulative exposures to TACs from all sources (existing and proposed), or for cumulative exposures from all non-mobile sources, have not been established in law, regulation, or guidance provided by any agency with the authority to establish such limits. Staff expects that cumulative risk management guidelines may be developed at the state-level by CARB over the next several years. Undoubtedly, these guidelines will be developed through a full public process that will allow input from many diverse stakeholders. District staff intends to participate in the development of these guidelines.

The District's Community Air Risk Evaluation (CARE) program was developed to identify and reduce cumulative risks from multiple sources of air pollution. One of the upcoming CARE program tasks is a pilot program that focuses on multiple permitted sources of air pollution in a neighborhood. As a part of this effort, the District's tools and databases necessary to conduct cumulative HRAs for multiple facilities are being enhanced. The study will also determine the difference between the maximum incremental health risks of individual facilities, and the maximum cumulative health risks of multiple facilities. The District will use the results of this study to better understand the costs and benefits of including cumulative risk considerations in regulatory programs such as Air Toxics NSR.

Staff believes that the proposed Air Toxics NSR rule will protect public health while balancing consideration of technological feasibility, economic reasonableness of risk reduction methods, and uncertainties and variability in health risk assessments. The proposed rule is believed to be the most stringent of any such rule that exists in California or elsewhere.

Respectfully submitted,

Brian Bateman, Director  
Engineering Division

FORWARDED: \_\_\_\_\_

Reviewed by: Peter Hess

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
Memorandum

To: Chairperson Townsend and Members  
of the Board of Directors

From: Jack P. Broadbent  
Executive Officer/APCO

Date: May 23, 2005

Re: Public Hearing to Consider Adoption of Proposed Amendments to Regulation  
2: Permits, Rule 1: General Requirements, Section 407: Permit Expiration and  
Approval of the Filing of a CEQA Notice of Exemption

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RECOMMENDED ACTION:

Staff recommends that the Board take the following actions:

- A) Adopt Proposed Amendments to Regulation 2, Rule 1, Section 407: Permit Expiration; and
- B) Approve the filing of a CEQA Notice of Exemption.

BACKGROUND

Under District rules, any person who seeks to construct or modify a source of air pollution must first obtain an authority to construct (AC) from the District. Section 407 states that an AC expires after two years, or, if renewed, after four years. In 2004, the District proposed to allow AC renewal beyond four years in order to harmonize District requirements with California Environmental Quality Act (CEQA) requirements. The BAAQMD Board of Directors considered and adopted various permit rule amendments in December 2004, but the AC renewal language was withdrawn prior to the hearing by staff for additional development. The District has now developed new rule language and is proposing adoption of the new language.

DISCUSSION

In 1998, Section 407 was amended to set an outside limit of four years on the life of an AC. This limit serves to encourage serious applications and prompt action on the applications. The vast majority of projects for which the District grants an AC are completed within the four years. However, now that the District has substantial experience with this four-year limit, staff have recognized two situations in which AC extensions beyond the four-year limit should be granted: (1) projects involving related actions that will occur over more than four years and that are considered a single project for purposes of CEQA analysis, and (2) projects for which the AC has been “substantially used,” meaning that substantial work, equipment purchase, or contractual obligation has occurred, within the four years.

The proposed amendments to Section 2-1-407 would do the following:

- Clarify that a renewal request is required for each renewal;
- Provide that if an AC expires before the APCO can act on a request for renewal, the AC is extended for the time necessary for the APCO to act;
- Retain the current four-year limit on the term of an AC for most projects;
- Allow an AC for a longer-term project covered by an EIR to be renewed beyond four years;
- Allow an AC that has been substantially used to be renewed beyond four years;
- Clarify the prerequisites for renewal.

The District has determined that these proposed amendments to Regulation 2, Rule 1, Section 407 are exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to State CEQA Guidelines, Sections 15061, subd. (b)(3) and 15273. The proposed amendments are administrative in nature, and do not in themselves affect air emissions from any sources or operations subject to the rule. It can therefore be seen with certainty that there is no possibility that these proposed amendments will have a significant environmental impact. The District intends to file a Notice of Exemption pursuant to State CEQA Guidelines, Section 15062.

The affected industry and public have had the opportunity to comment on the proposed amendments. An earlier version of the proposal was discussed at a workshop in October 2004. The current version was made available for public comment in April 2005 and again in connection with the notice for this hearing. The proposed amendments have met all legal noticing requirements. The proposed amendments and a staff report are attached.

#### BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent  
Executive Officer / Air Pollution Control Officer

Prepared by: Bill Guy  
Reviewed by: Jean Roggenkamp

**Bay Area Air Quality Management District**

**939 Ellis Street  
San Francisco, CA 94109**

**Proposed Amendments to  
Regulation 2 (Permits), Rule 1 (General Requirements)**

**Staff Report**

**May 19, 2005**

**Bill Guy  
Assistant Counsel**

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## **DRAFT STAFF REPORT**

### **Proposed Amendments to Regulation 2 (Permits) Rule 1 (General Requirements)**

#### **Summary**

Regulation 2 (Permits), Rule 1 (General Requirements) requires any person seeking to construct or modify any source of air pollution to first obtain an authority to construct (AC) from the District. Regulation 2, Rule 1, Section 407 provides for an initial term of two years for an AC, with an option for renewal for an additional term of two years. The section states that an AC expires after two years, or, if renewed, after four years. In most cases, projects are constructed within the initial two-year term. The renewal provisions, however, do not clearly specify the renewal procedure to be followed in all cases and do not address various situations that may require renewal after four years.

The proposed amendments to Regulation 2 (Permits), Rule 1 (General Requirements), Section 407 are intended to clarify the procedure to be followed by the holder of an AC for any renewal. In addition, the amendments are intended to address situations where the District would want to renew an AC beyond the current four-year limit. One type of situation involves a project with a construction period longer than four years for which an environmental impact report (EIR) explicitly described and analyzed this longer construction period. A second type of situation involves an AC under which construction has proceeded to a point at which, under circumstances defined in case law, the holder of the AC would acquire certain “vested rights” to proceed with the project. The District’s current renewal provisions already recognize that vested rights considerations compel AC renewal in some circumstances by stating that an AC expires after two years unless “substantial use” of the AC has begun. The proposed amendments would allow the District to renew an AC beyond four years in both the EIR and vested rights situations.

The proposed amendments are similar to a proposal originally included in, but withdrawn from, amendments considered and adopted by the BAAQMD Board of Directors in December 2004. That proposal, however, only addressed renewals involving an EIR covering a long-term project. The proposal was withdrawn to add procedural provisions and to address vested rights situations. The earlier version of the proposal was discussed, along with the other amendments that went to the Board in December 2004, at a workshop on October 12, 2004. Because the current proposal is a narrow technical revision of the previous proposal, it was made available for public review through a request for comment procedure. Comments were accepted during the period from April 7, 2005 to April 29, 2005. One comment was received during this comment period. An additional comment was received from the California Air Resources Board in connection with the notice for the public hearing. The comments and the District’s responses are included in this report.

## Background

On December 21, 2004, the BAAQMD Board of Directors approved a set of amendments to the District's permit rules. The primary purpose of the amendments was to lower the threshold at which emission offsets must be provided for a new or modified source at a facility. Offsets ensure that a new pollution source does not result in an overall net increase in pollution. The Board adopted the new District offset requirements to comply with California Air Resources Board ozone transport regulations. A second purpose of the December 21, 2004 amendments was to make miscellaneous changes to the permit rules, primarily to clarify existing requirements.

During the rule development process for the December amendments, the District proposed an amendment to Regulation 2, Rule 1 to address renewal of ACs in one type of situation where the current four-year limit on the term of an AC conflicted with environmental review considerations. The language proposed at that time would have allowed renewal of the AC for a project covered by an environmental impact report (EIR) that addressed construction over a period longer than the four years available under the current rule. That proposal was withdrawn, however, when it was recognized that it did not also address problems with the four-year limit as applied to an AC under which substantial work has been done so that, at the end of four years, the holder of the AC has acquired vested rights to complete the project. In withdrawing the proposal, the District also sought to add language clarifying the procedure to be followed for renewals. District staff proposed to bring new language to the Board in 2005.

## Proposed Amendments

The proposed amendments to Regulation 2, Rule 1, Section 407 are as follows:

- 2-1-407 Permit Expiration of Authority to Construct:** An authority to construct shall expire two years after the date of issuance, unless ~~substantial use of the authority has begun~~ the authority to construct has been renewed. Upon receipt of a written request and any required fees prior to the expiration of the authority to construct, the APCO shall renew the authority to construct in writing if the APCO determines that the renewal complies with this section and that the holder of the authority to construct is not violating any provision or condition of the authority. If the APCO does not act on such a request prior to expiration of the authority to construct, the authority shall remain in effect until the APCO has acted to approve or deny the renewal request. ~~However~~
- 407.1 The following requirements shall apply to renewals:
- 1.1 Except as provided in Sections 2-1-407.2 and 407.3, an authority to construct may be renewed one time for an additional two years;
  - 1.2 Except for renewals pursuant to Section 2-1-407.3, renewal is contingent upon subject to meeting the current BACT and offset requirements of Regulation 2-2-301, 302 and 303, upon receipt of a written request from the applicant and written approval thereof by the APCO prior to the expiration of the initial authority to construct; and
  - 1.3 Except as provided in Sections 2-1-407.2 and 407.3, an ~~An~~ authority to construct that has ~~not expired after two years, due to substantial use or renewal, been renewed~~ shall expire after four years after the date of original issuance.
- 407.2 If the authority to construct was issued pursuant to an environmental impact report (EIR) that explicitly covered a construction period longer than four years, the

- authority to construct shall, upon request by the applicant, be renewed for additional two-year terms throughout the construction period covered by the EIR.
- 407.3 If substantial use of the authority to construct has begun, either during the initial term or during a renewal term, the authority to construct shall, upon request by the applicant, be renewed for additional two-year terms until the permit to operate is issued, or, if a term of less than two years is requested, for such term as is requested.

The proposed amendments make the following changes or clarifications in the AC renewal provisions:

- Clarify that a renewal request is required for each renewal;
- Provide that if an AC expires before the APCO can act on a request for renewal, the AC is extended for the time necessary for the APCO to act;
- Retain the current 4-year limit on the term of an AC for most projects;
- Allow an AC for a longer-term project covered by an EIR to be renewed beyond 4 years;
- Allow an AC that has been substantially used to be renewed beyond 4 years;
- Clarify prerequisites for renewal.

Each of the changes is briefly discussed below.

### **Requirement for Renewal Request**

Under the existing provisions, a request is required before an AC is “renewed.” The rule is unclear, however, about how an AC for which substantial use has occurred is handled. The rule states that an AC expires after two years “unless substantial use of the authority has begun,” but does not provide a procedure for making this determination. The proposed amendments require a request for all renewals, thus providing a mechanism for the APCO to consider whether an AC has been substantially used and for granting a renewal on that basis.

### **Extension of Time to Consider Renewal Request**

The proposed amendments ensure that the AC does not expire during the time that the APCO is considering and acting upon a renewal request. Under the existing language, if the APCO fails to act in time, the AC expires, potentially adding unnecessary work and complication to the renewal process. In addition, the existing provisions potentially put unnecessary time pressure on a renewal request, which has some potential to rush decisions where the APCO would otherwise wish to obtain additional information.

### **Retention of Four-Year Limit for Most ACs**

In 1998, Section 2-1-407 was amended to add the final sentence in the existing section, thereby imposing a four-year limit on the life of an authority to construct. The effect of the 1998 amendment was to preclude any additional renewal of an AC beyond the two-year renewal term allowed by the section. Most projects for which a permit is issued by the District are completed within four years, and, in practice, the limit poses few problems. The limit encourages prompt use of the AC and provides for finality in those situations where an AC is not used.

**Allowance for Renewal Beyond Four Years for Long-Term Projects Covered by an EIR**

For a project consisting of a series of related actions taken over time, the California Environmental Quality Act (CEQA) requires that the impacts of these actions be considered together. With the current four-year limit, the developer of such a project faces two alternatives: delay applying for a District permit for those components that will not be completed within four years, or reapply for a new permit at a later date. The first choice results in piecemealing of the project, which is contrary to CEQA's mandate to consider the "whole of an action<sup>1</sup>." In addition, it results in uncertainty concerning project design, with components of the project considered separately. The second choice results in a duplicate permitting process, with resulting administrative inefficiency and expense.

The proposed amendments would allow the District to renew the AC for such a project past four years from the date of original issuance. Under the amendments, requirements for offset and BACT adjustments would apply to the project to ensure that elements of the project completed later in the construction process comply with the latest requirements. BACT and offset adjustments would not apply, however, to the extent that work proceeds to a point that vested rights arise for the project or for elements of the project. In such a case, the AC holder could seek renewal pursuant to the renewal option for projects with vested rights.

**Allowance for Renewal Beyond Four Years for Projects with Vested Rights**

The proposed amendments are also intended to ensure that District provisions conform to state law regarding vested rights. The current Section 2-1-407 states that an AC expires after two years "unless substantial use of the authority has begun." This language was included to recognize that substantial use of an AC gives rise to vested rights that would preclude the District from refusing to renew the permit. The term "substantial use" is defined in Section 2-1-227 as "... one or more of the following: purchase or acquisition of the equipment that constitutes the source; ongoing construction activities other than grading or installation of utilities or foundations; a contract or commitment to complete construction of the source within two years."

Though the literal effect of the current rule language is that an AC that has been substantially used does not expire and therefore does not require renewal, it is unclear whether the language was intended to have this meaning or, instead, was intended to mean that such an AC would be renewed. Under either interpretation, however, the 1998 addition of the four-year limit on the life of an AC creates a potential conflict for those ACs that have been substantially used. If the four-year limit is applied to such an AC, the limit is inconsistent with California vested rights case law. The proposed amendments therefore make it clear that renewals beyond four years are required if an AC has been substantially used.

Other air districts typically renew or otherwise extend an AC when the AC has been substantially used. The South Coast AQMD administrative procedures, for example, provide for

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<sup>1</sup> CEQA Guidelines, Cal. Code Regs., tit. 14, § 15378.

extensions when construction has started, when construction will extend over more than one year, and when the project is delayed<sup>2</sup>.

### **Prerequisites for AC Renewal**

The current rule states that renewal for a second two-year term is contingent on compliance with current BACT and offset requirements. Under the current language, this requirement does not apply to an AC that has been substantially used because the AC does not expire after the first two-year term and therefore does not require renewal. Because the current rule does not allow renewals after four years for any AC, it does not address BACT and offset adjustment after four years. The proposed amendments clarify that BACT and offset adjustment apply to all renewals except those based on substantial use of an AC.

BACT and offset adjustment should not apply to renewal of an AC that has been substantially used for both practical and legal reasons. As a practical matter, the holder of an AC that has been “substantially used” is already constructing the project or has contractually obligated itself to construct the project as proposed. It would make no practical sense to make any adjustment to such a project upon renewal of the AC. More importantly, however, it would violate due process rights of the AC holder to require modification of the project after substantial funds and effort have been expended to build the project as proposed.

The proposed amendments explicitly require compliance with the terms of the existing AC as a prerequisite to renewal. This provision is added to provide an additional remedy in those relatively rare situations where an AC holder does not build in conformance with the AC. The December 2004 amendments to the permit rules explicitly required an AC holder to build in conformance with the AC. Prior to that amendment, the APCO’s authority was limited to refusing to issue a permit to operate, but, in those rare cases where the permit was issued before the nonconformity was discovered, the APCO had very limited options.

Finally, any required fees must be paid before an AC will be renewed. Currently, no fee is required for renewal. One recommendation of the 2005 Cost Recovery Study was to implement fees to cover District costs in reviewing and issuing AC renewals. Any fee proposal will be addressed when the District proposes revisions to Regulation 3, Fees.

### **Socioeconomic Impacts of Rulemaking**

Section 40728.5, subdivision (a) of the California Health and Safety Code (H&SC) requires districts to assess the socioeconomic impacts of amendments to regulations that, “...will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.”

The District has determined that this section of the Health and Safety Code is not applicable to the proposed amendment. The proposed amendment will not significantly affect air quality or emissions limitations.

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<sup>2</sup> South Coast AQMD, Certified Permitting Professional Program Reference Manual, § 3-7.2.1 (May 2003).

Under Health and Safety Code § 40920.6, the District is required to perform an incremental cost analysis for any proposed best available retrofit control technology rule. If applicable to this proposed rulemaking activity, the District is required to: (1) identify one or more control options achieving the emission reduction objectives for the proposed rule, (2) determine the cost effectiveness for each option, and (3) calculate the incremental cost effectiveness for each option. To determine incremental costs, the District must “calculate the difference in the dollar costs divided by the difference in the emission reduction potentials between each progressively more stringent potential control option as compared to the next less expensive control option.”

The District has determined that this section of the Health and Safety Code is not applicable to the proposed amendments. The rules being amended are not best available retrofit control technology rules.

### **Regulatory Impacts**

Health and Safety Code Section 40727.2 imposes requirements on the adoption, amendment, or repeal of air district regulations. The law requires a district to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in district rules. The district must then note any differences between these existing requirements and the requirements imposed by the proposed change. Where the district proposal does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements, the district may simply note this fact and avoid additional analysis.

These proposed amendments do not impose a new standard, make an existing standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements.

### **Environmental Impacts of the Rulemaking**

Pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.), the District is the Lead Agency for the described project. The District has determined that these proposed amendments to Regulation 2, Rule 1 are exempt from provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to State CEQA Guidelines, Sections 15061, subd. (b)(3). The proposed amendments are administrative in nature, and do not in themselves affect air emissions from any sources or operations subject to the rule. For ACs that are renewed because the project is covered by an EIR that addresses construction over more than four years, the proposed amendments do not change any air quality requirements that would be imposed. In addition, the amendments remove any incentives to piecemealing of a project that may exist in the current four-year limit and promote CEQA’s mandate to consider the “whole of an action” in analyzing environmental impacts. For an AC that is renewed based on substantial use, the proposed amendments do not change the effect of the rule unless the AC is renewed beyond four years after original issuance. But renewal under these circumstances is compelled by existing law. As a result, the effect of the existing rule and the amended rule are the same, assuming that the District rule is considered in the context of other applicable law, and assuming compliance with that law. It can therefore be seen with

certainty that there is no possibility that these proposed amendments will have a significant environmental impact.

## **Compliance with SB 288**

In 2003, California Senate Bill 288 added sections 42500 through 42507 to the Health and Safety Code. The new provisions state that amendments to California air district NSR rules must not lessen the stringency of the rules as a whole. Additionally, certain parts of the rules (applicability determination, definitions, calculation methodologies and thresholds) may not be changed to exempt, relax or reduce the obligations of a stationary source for certain requirements (obligation to obtain a permit, application of BACT, air quality impact analysis, monitoring requirements, regulation of pollutants, and public participation) unless certain findings are made.

The proposed amendments provide for extension of ACs beyond four years in two circumstances discussed above. For projects covered by an EIR that addresses construction over a period longer than four years, any renewal is contingent upon compliance with BACT and offset requirements. The renewal provision therefore changes no regulatory requirements for these projects. The proposed amendments also allow extension of an AC beyond four years if the AC holder has acquired vested rights through substantial use of the AC. Because this result is compelled by existing law, the amendment makes no change in the effect of District regulations when taken together with the body of existing law. As a result, the District concludes that the proposed amendments do not reduce the stringency of the NSR rules in any respect, and are therefore in compliance with the requirements of Health and Safety Code § 42504.

## **Statutory Findings**

Pursuant to Section 40727 of the California Health and Safety Code (H&SC), regulatory amendments must meet findings of necessity, authority, clarity, consistency, non-duplication, and reference. The proposed amendments are:

- Necessary to clarify procedures for renewal of Authorities to Construct;
- Authorized by H&SC Sections 40000, 40001, 40702, 40725 through 40728, 40918, and 42300 *et seq.*, 42 USC §7410, 42 USC §7503;
- Written or displayed so that their meaning can be easily understood by the persons directly affected by them;
- Consistent with other District rules, and not in conflict with state or federal law;
- Non-duplicative of other statutes, rules, or regulations.

## **Conclusion**

The proposed amendments have met all legal noticing requirements and have been discussed with interested parties. District staff recommends adoption of the amendments as proposed.

## Comments and Responses

- 1. Some projects require, in addition to the air permit, other regulatory permits, which the applicant has to wait for many years before s/he can obtain it. Occasionally the AC expires before all of the project's permits are issued. For projects that require multiple permits, we suggest that Section 407 would include a language to accommodate these projects. We suggest that the expiration date of the AC would be two (2) years after all required project permits are issued by the other regulatory agencies. The applicant must submit to the BAAQMD a written evidence of the other regulatory agencies permit decisions. <Wahbeh, Evergreen Oil. 4/21/05>**

*The District disagrees with the proposal for several reasons. First, the current limits are reasonable. The vast majority of all projects for which the District grants an AC are completed within the four years allowed, and many of these projects require multiple approvals. Where an applicant not falling within one of the two exceptions cannot secure all approvals, the applicant need only resubmit the application. Second, because the proposal would set an indefinite term, it would eliminate the current rule's biennial review for BACT and offset requirements and would therefore violate SB288. Third, the current limits provides multiple benefits to the District and the public. They encourage serious applications and prompt action on those applications. They avoid creation of a large District inventory of inactive proposals. They also provide for administrative finality. Fourth, the proposal would be difficult to administer. It would base the term of an AC on the actions of other agencies and would require the District to track and review actions on the project by other agencies.*

- 2. We recommend that a time limit, within which the District must approve or deny a renewal of an authority to construct, be added to the rule language or to written District policy or procedures. <Rump, California Air Resources Board. 5/18/05>**

*In Section 2-1-408, the rule already contains a 35-working-day limit on the time the District has to act on "applications." The District interprets a request for renewal as an application within the meaning of Section 408 and therefore subject to the 35-working-day limit.*



## PROPOSED AMENDMENTS

The proposed amendments to Regulation 2, Rule 1, Section 407 are as follows:

- 2-1-407** **Permit Expiration of Authority to Construct:** An authority to construct shall expire two years after the date of issuance, unless ~~substantial use of the authority has begun~~ the authority to construct has been renewed. Upon receipt of a written request and any required fees prior to the expiration of the authority to construct, the APCO shall renew the authority to construct in writing if the APCO determines that the renewal complies with this section and that the holder of the authority to construct is not violating any provision or condition of the authority. If the APCO does not act on such a request prior to expiration of the authority to construct, the authority shall remain in effect until the APCO has acted to approve or deny the renewal request.  
~~However~~
- 407.1 The following requirements shall apply to renewals:
- 1.1 Except as provided in Sections 2-1-407.2 and 407.3, an authority to construct may be renewed one time for an additional two years;
  - 1.2 Except for renewals pursuant to Section 2-1-407.3, renewal is contingent upon ~~subject to~~ meeting the current BACT and offset requirements of Regulation 2-2-301, 302 and 303, ~~upon receipt of a written request from the applicant and written approval thereof by the APCO prior to the expiration of the initial authority to construct;~~ and
  - 1.3 Except as provided in Sections 2-1-407.2 and 407.3, ~~an~~ an authority to construct that has ~~not expired after two years, due to substantial use or renewal,~~ been renewed shall expire ~~after~~ four years after the date of original issuance.
- 407.2 If the authority to construct was issued pursuant to an environmental impact report (EIR) that explicitly covered a construction period longer than four years, the authority to construct shall, upon request by the applicant, be renewed for additional two-year terms throughout the construction period covered by the EIR.
- 407.3 If substantial use of the authority to construct has begun, either during the initial term or during a renewal term, the authority to construct shall, upon request by the applicant, be renewed for additional two-year terms until the permit to operate is issued, or, if a term of less than two years is requested, for such term as is requested.