

Mojave Desert Air Quality Management District Governing Board Meeting

Agenda

LOCATION

**MOJAVE DESERT AQMD BOARD CHAMBERS
14306 PARK AVENUE VICTORVILLE, CA 92392
MONDAY, OCTOBER 23, 2017
10:00 AM**

TELECONFERENCE LOCATION(S)

San Bernardino County Government Center
385 N. Arrowhead Ave., Fifth Floor
San Bernardino, CA 92415

Riverside County Board of Supervisors
73-710 Fred Waring Drive, Ste. 222
Palm Desert, CA 92260

Blythe City Hall, Conference Room A
235 N. Broadway
Blythe, CA 92225

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE LISTED PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE GOVERNING BOARD AT, OR PRIOR TO, THE PUBLIC HEARING.

DUE TO TIME CONSTRAINTS AND THE NUMBER OF PERSONS WISHING TO GIVE ORAL TESTIMONY, PUBLIC COMMENTS ARE LIMITED TO THREE MINUTES PER SPEAKER. YOU MAY WISH TO MAKE YOUR COMMENTS IN WRITING TO ASSURE THAT YOU ARE ABLE TO EXPRESS YOURSELF ADEQUATELY.

Except where noted, all scheduled items will be heard in the Chamber of the Governing Board, Mojave Desert AQMD Offices, 14306 Park Avenue, Victorville, CA and the teleconference location(s). Please note that the Board may address items in the agenda in a different order than the order in which the item has been posted.

CALL TO ORDER 10:00 A.M.

Pledge of Allegiance.

Roll Call.

Items with potential Conflict of Interests - for information only. A. Item #10. District Board Members and Officers; Environmental Engineering Services, Inc.

PUBLIC COMMENT

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Name of Case: Michele Baird vs MDAQMD et. al CIVDS 1612446 San Bernardino County Superior Court (Government Code Section 54956.9).
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (1 Case).

OPEN SESSION

Disclosure of any Reportable action taken in Closed Session; and the Vote and Abstention of every Member Present in the Closed Session

CONSENT CALENDAR

3. [Approve Minutes from Regular Governing Board Meeting of September 25, 2017.](#)
4. [Receive and file the Technical Advisory Committee meeting minutes of October 3, 2017. Presenter: Alan De Salvio.](#)
5. [Amend Governing Board Policies 96-03, "Internet Access and Presence;" and 06-02, "Authority of District Counsel;" and delete Governing Board Policy, 04-01, "District Counsel Electronic Communication, Electronic Documents, Attorney Client Privilege, and Work Product Privilege." Presenter: Jean Bracy.](#)
6. [Receive and file the revised "Carl Moyer Program Policies & Procedures Manual" incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from the California Air Resources Board \(CARB\) and certain administrative updates. Presenter: Jean Bracy.](#)
7. [Receive and file revised "Carl Moyer Program Voluntary Accelerated Vehicle Retirement Program Work Plan" incorporating the 2017 Revisions to the Carl](#)

- Moyer Program Guidelines from the California Air Resources Board (CARB) and certain administrative updates. Presenter: Jean Bracy.
8. Allocate funds from the Mobile Source Emissions Reduction Program (AB 2766) Grant Fund not to exceed \$150,000 for continued implementation of the MDAQMD Voluntary Accelerated Vehicle Retirement (VAVR) Program for program expenditures July 1, 2017 through December 31, 2018. Presenter: Jean Bracy.
 9. Allocate funds from the Mobile Source Emissions Reduction Program (AB 2766) Grant Fund not to exceed \$40,000 to purchase and install equipment and associated programming to upgrade the video conferencing sound system. Presenter: Jean Bracy.
 10. Authorize a Fifth Amendment to the contract with Environmental Engineering Studies, Inc. (EES) continuing the administration of the Districts Voluntary Accelerated Vehicle Retirement (VAVR) Program, and authorize the Executive Director to execute the extension and revise the administrative terms of the contract as needed, approved as to legal form, through December 2018. Presenter: Jean Bracy.
 11. Receive and file the Legislative Report for October 5, 2017. Presenter: Brad Poiriez.

ITEMS FOR DISCUSSION

12. DEFERRED ITEMS.
13. PUBLIC COMMENT.
14. Conduct a public hearing to consider the amendment of Rule 102 – Definition of Terms: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending Rule 102 and directing staff actions. Presenter: Alan De Salvio.
15. Conduct a public hearing to consider the amendment of Rule 461 – Gasoline Transfer and Dispensing, Rule 462 – Organic Liquid Loading and Rule 463 – Storage of Organic Liquids and continue public hearing to January 22, 2018. Presenter: Alan De Salvio.
16. Conduct a public hearing to consider the amendment of Rule 1115 – Metal Parts & Products Coating Operations and continue public hearing to January 22, 2018. Presenter: Alan De Salvio.
17. Conduct a public hearing to consider amendments to proposed Rule 1160 – Internal Combustion Engines and continue public hearing to January 22, 2018. Presenter: Alan De Salvio.

18. [Receive and file a presentation from the Engineering Section describing the work and responsibilities associated with engineering activities. Presenter: Sheri Haggard.](#)
19. [Reports: Executive Director](#)
20. Board Members Comments and Suggestions for future agenda items.

In compliance with the Americans with Disabilities act, if special assistance is needed to participate in the Board Meeting, please contact Deanna Hernandez during regular business hours at 760.245.1661 x6244. Notification received 48 hours prior to the meeting will enable the District to make reasonable accommodations.

I hereby certify, under penalty of perjury, that this agenda has been posted 72 hours prior to the stated meeting in a place accessible to the public. Copies of this agenda and any or all additional materials relating thereto are available at the District Office at 14306 Park Avenue, Victorville, Ca 92392 or by contacting Deanna Hernandez at 760.245.1661 x6244 or by email at dhernandez@mdaqmd.ca.gov .

Mailed & Posted on: Tuesday, October 17, 2017.

Approved:

Deanna Hernandez

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of September 25, 2017.](#)

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
REGULAR GOVERNING BOARD MEETING
MONDAY, SEPTEMBER 25, 2017 - 10:00 A.M.
BOARD CHAMBERS, MDAQMD OFFICES
VICTORVILLE, CA**

MINUTES

Board Members Present:

Jim Cox, Chair, City of Victorville
Jeff Williams, Vice Chair, City of Needles
Ed Camargo, City of Adelanto
John Cole, City of Twentynine Palms
Joseph “Joey” DeConinck, City of Blythe
Carmen Hernandez, City of Barstow
Robert Leone, Town of Yucca Valley
Robert Lovingood, San Bernardino County
Barbara Riordan, Public Member
Barb Stanton, Town of Apple Valley

Board Members Absent:

V. Manuel Perez, Riverside County
James Ramos, San Bernardino County
Paul Russ, City of Hesperia

CALL TO ORDER

Chair **JIM COX** called the meeting to order at 10:01 a.m. and asked Board Member **JEFF WILLIAMS** to lead the Pledge of Allegiance.

Chair **JIM COX** asked for roll call; roll was called.

Special Announcements/Presentations:

Plaque presentation to Maple Elementary School in Hesperia for the Pilot School Flag Program. Chair **JIM COX** and Executive Director Brad Poiriez, on behalf of the Governing Board, congratulated and presented Maple Elementary with a plaque for being selected as the first school to pilot the program and for their efforts in supporting the program.

Presentation of 2016/2017 Exemplar Award to the Marine Corps Air Ground Combat Center in Twentynine Palms, CA. Chair **JIM COX** and Executive Director Brad Poiriez, on behalf of the Governing Board, congratulated and presented the Marine Corps Air Ground Combat Center the Exemplar Award for their leadership in energy efficiency, implementing renewable energy projects which have significantly reduced emissions and for demonstrating a solid commitment to improving air quality.

Chair **JIM COX** called for items with potential conflict of interest – for information only: None.

Chair **JIM COX** called for PUBLIC COMMENT – None made at this time.

CLOSED SESSION

Upon Motion by Board Member **JOHN COLE**, Seconded by Board Member **BARB STANTON** and carried by unanimous roll call vote, the Board adjourned to Closed Session at 10:21 a.m.

Agenda Item 1 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Name of Case: Michele Baird vs MDAQMD et. al CIVDS 1612446 San Bernardino County Superior Court (Government Code Section 54956.9).

Agenda Item 2 - CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (1 Case).

OPEN SESSION - Disclosure of any Reportable Action(s) taken in Closed Session(s); and the Vote and Abstention of Every Member Present in the Closed Session.

The Governing Board reconvened to open session at 10:36 a.m., and Special Counsel **Piero Dallarda** stated that the Board met in Closed Session on all items with no reportable action for all items.

CONSENT CALENDAR - The following consent items were acted upon by the Board at one time without discussion, upon motion by Board Member **BARB STANTON**, Seconded by Board Member **JOHN COLE**, and carried by the following roll call vote, with ten **AYES** votes by Board Members **ED CAMARGO**, record to reflect that Board Member **ED CAMARGO** abstained on Agenda Item #3, **JOHN COLE, JIM COX, JOSEPH DECONINCK, CARMEN HERNANDEZ, ROBERT LEONE**, record to reflect that Board Member **ROBERT LEONE** abstained on Agenda Item #3, **ROBERT LOVINGOOD**, record to reflect that Board Member **ROBERT LOVINGOOD** abstained on Agenda Item #3, **BARBARA RIORDAN, BARB STANTON and JEFF WILLIAMS** as follows:

Agenda Item 3 – Approve Minutes from Regular Governing Board Meeting of August 28, 2017.

Approved the minutes from the Regular Governing Board meeting of August 28, 2017.

Agenda Item 4 – Amend the MDAQMD Personnel Policies and Procedures (PPP) to incorporate changes in specified terms and conditions to conform to the recently adopted Memorandum of Understanding (MOU), to conform to recent legislation and guidance, and make other administrative changes.

Amended the MDAQMD Personnel Policies and Procedures (PPP) to incorporate changes in specified terms and conditions to conform to the recently adopted Memorandum of Understanding (MOU), to conform to recent legislation and guidance, and make other administrative changes.

Agenda Item 5 – Amend Governing Board Policy 11-02, “Designation of “Local Agency Officials” for Purposes of Ethics Training and Designation of Clerk of the Boards as Filing Official.”

Amended Governing Board Policy 11-02, “Designation of “Local Agency Officials” for Purposes of Ethics Training and Designation of Clerk of the Boards as Filing Official.”

Agenda Item 6 – Receive and file. This item reports the status of the District’s Other Post-Employment Benefits (OPEB) irrevocable trust and investment summary.

Received and filed. This item reports the status of the District’s Other Post-Employment Benefits (OPEB) irrevocable trust and investment summary.

Agenda Item 7 – Receive and file the Legislative Report for September 8, 2017.

Received and filed the Legislative Report for September 8, 2017.

Agenda Item 8 – Ratify the Air Pollution Control Officer’s new appointment to the General Member position due to the recent vacancy on the Technical Advisory Committee (TAC).

Ratified the Air Pollution Control Officer’s new appointment to the General Member position due to the recent vacancy on the Technical Advisory Committee (TAC).

Agenda Item 9 – Set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 102 – Definition of Terms and approval of California Environmental Quality Act (CEQA) documentation.

Approved set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 102 – *Definition of Terms* and approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 10 – Set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 461 *Gasoline Transfer and Dispensing*, Rule 462 *Organic Liquid Loading* and Rule 463 *Storage of Organic Liquids* as well as the approval of California Environmental Quality Act (CEQA) documentation.

Approved set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 461 *Gasoline Transfer and Dispensing*, Rule 462 *Organic Liquid Loading* and Rule 463 *Storage of Organic Liquids* as well as the approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 11 – Set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 1115 *Metal Parts & Products Coating Operations* and approval of California Environmental Quality Act (CEQA) documentation.

Approved set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 1115 *Metal Parts & Products Coating Operations* and approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 12 – Set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 1160 *Internal Combustion Engines* and approval of California Environmental Quality Act (CEQA) documentation.

Approved set date of October 23, 2017 to conduct a public hearing to consider the amendment of Rule 1160 *Internal Combustion Engines* and approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 13 – DEFERRED ITEMS:

None

Agenda Item 14 – PUBLIC COMMENT.

None

Agenda Item 15 – Receive and file a presentation from the Compliance Section describing the work and responsibilities associated with Compliance activities.

Received and filed a presentation from the Compliance Section describing the work and responsibilities associated with compliance activities (no motion required, informational item only).

Agenda Item 16 – Reports:

Executive Director Brad Poiriez:

- Mr. Poiriez recognized 5 years milestone for staff members Catherine Tran, William Berghoff and Hector Arreola;
- Mr. Poiriez informed the Board that Jean Bracy was elected Special District Risk Management Authority (SDRMA) Board of Directors as President.
- Mr. Poiriez informed the Board that the District had “no” paid property/liability claims or workers compensation claims in 2016-17 that contributes to a lower risk factor providing affordable coverage in the future.
- Mr. Poiriez informed the Board that the National Air Quality Conference in Austin, TX was cancelled due to hurricane Harvey. The conference will be rescheduled for a future date in Texas and will moderate a panel discussion.
- Mr. Poiriez informed that Board that MD AQMD Logo shirts available for Board Members and staff.

Mr. Poiriez updated the Board of past events:

- September 6th – attended the State of the County Valley Morning Insight gathering;
- September 13th – the District mailed out a letter regarding Cannabis Cultivation;
- September 15th – the District provided harassment training for staff presented by SDRMA;
- September 17th – U.S. Circuit Court of N. District of California S. F. Division approved the trust agreement for the VW Environmental Mitigation Trust;
- September 17th – the Governor of California signed AB 109 Budget Act of 2017;
- September 19th – 21st – attended the AAPCA.
- September 20th – Contacted by Eleanor Torres, co-director of Incredible Edibles Community Gardens, regarding an upcoming tree planting project to start in Barstow on October 12, 2017. Ms. Torres is a member of the State Environmental Justice Advisory Committee. I’m proud to announce that I’m able to award a donation of \$2500.00 from our newly created Clean Air Fund for this project.

Mr. Poiriez informed the Board of upcoming events:

- October 23rd – 26th – CAPCOA Fall Membership Conference, Monterey, CA;

Agenda Item 17 - Board Member Comments and Suggestions for Future Agenda Items.

- Board Member **STANTON** publicly thanked the District for supporting the school flag program and publicly thanked Sarah Strout for her presentation.
- Board Member **HERNANDEZ** added that the trees being planted in Barstow on October 12th will be planted with a tag honoring a veteran.
- Board Member **WILLIAMS** brought an asbestos issue in Needles to the Board attention.
- Board Member **LEONE** mentioned that an electric charging station will be placed at the public library.
- Board Member **RIORDAN** briefly conversed about the electric charging station process and the VW & CARB settlement.
- Board Member **COLE** briefly conversed about the electric charging station process also.

Being no further business, Chair **JIM COX** adjourned the meeting at **11:32 a.m.** to the next Regular Meeting of ***October 23, 2017.***

The following page(s) contain the backup material for Agenda Item: [Receive and file the Technical Advisory Committee meeting minutes of October 3, 2017. Presenter: Alan De Salvio.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #4

DATE: October 23, 2017

RECOMMENDATION: Receive and file minutes of the Technical Advisory Committee (TAC) meeting October 3, 2017.

SUMMARY: This item provides a copy of the minutes of the TAC for the information of Governing Board members.

CONFLICT OF INTEREST: None

BACKGROUND: The Board recently requested that the minutes of the Technical Advisory Committee be provided as part of the Governing Board agenda.

REASON FOR RECOMMENDATION: Governing Board request.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Alan De Salvio, Deputy Director Mojave Desert Operations on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director Mojave Desert Operations

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
TECHNICAL ADVISORY COMMITTEE (TAC)
TUESDAY, OCTOBER 3, 2017, 2:00 P.M.
BOARD CONFERENCE ROOM
VICTORVILLE, CA
MINUTES**

TAC MEMBERS IN ATTENDANCE:

Dave Rib, Cement Industry Member
Bob Tinsley, Building Industry Member
Mark Burns, Military Member
Jerry Kinkade, General Member
Logan Olds, Utility Industry Member
Pat Flanagan, General Member

DISTRICT STAFF PARTICIPATION:

Brad Poiriez, Executive Director
Alan De Salvio, Deputy Director, MDAQMD Operations
Tracy Walters, Air Quality Specialist
Michelle Zumwalt, Air Quality Specialist
Sheri Haggard, Supervising Air Quality Engineer
Deanna Hernandez, Executive Office Manager

1. Call to Order

Alan De Salvio called the meeting to order at 2:05 pm.

2. Introductions

Introductions were made.

3. Rule 102 – Definition of Terms

Tracy Walters and Alan De Salvio provided background information on Rule 102 and answered questions from members. Following discussion, with no objections, it was the consensus of the TAC to recommend submittal of Rule 102 to the Governing Board for adoption October 23, 2017.

4. Rule 1115 – Miscellaneous Metal Parts and Products Coating Operations

Tracy Walters and Alan De Salvio provided background information on Rule 1115 and answered questions from members. Following discussion, with no objections, it was the consensus of the TAC to recommend submittal of Rule 1115 to the Governing Board for adoption October 23, 2017.

5. Rule 1160 – Internal Combustion Engines

Sheri Haggard and Alan De Salvio provided background information on Rule 1160 and answered questions from members. Following discussion, there were no objections from the TAC on the preliminary draft.

6. Rule 461 – Gasoline Transfer and Dispensing

Michelle Zumwalt and Alan De Salvio provided background information on Rule 461 and answered

TAC minutes 10.03.2017

questions from members. Following discussion, with no objections, it was the consensus of the TAC to recommend submittal of Rule 461 to the Governing Board for adoption October 23, 2017.

7. **Rule 462 – Organic Liquid Loading**

Michelle Zumwalt and Alan De Salvio provided background information on Rule 462 and answered questions from members. Following discussion, with no objections, it was the consensus of the TAC to recommend submittal of Rule 462 to the Governing Board for adoption October 23, 2017.

8. **Rule 463 – Storage of Organic Liquids**

Michelle Zumwalt and Alan De Salvio provided background information on Rule 463 and answered questions from members. Following discussion, with no objections, it was the consensus of the TAC to recommend submittal of Rule 463 to the Governing Board for adoption October 23, 2017.

9. **PUBLIC COMMENT**

None

10. **Committee Members comments and Suggestions for future agenda items**

- Alan De Salvio advised TAC that Rule 1157 – *Boilers and Process Heaters*, Rule 1114 – *Wood Products Coating Operations* and Rule 1161 – *Portland Cement Kilns* will be additional rules for review in the near future.
- Committee Member Flanagan commented on the subject of fugitive dust.

11. **Adjourn**

TAC planned January 9, 2018 at 2:00 p.m. as the next meeting. Being no further business, TAC adjourned at 3:52 p.m.

The following page(s) contain the backup material for Agenda Item: [Amend Governing Board Policies 96-03, "Internet Access and Presence;" and 06-02, "Authority of District Counsel;" and delete Governing Board Policy, 04-01, "District Counsel Electronic Communication, Electronic Documents, Attorney Client Privilege, and Wo](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #5

DATE: October 23, 2017

RECOMMENDATION: Amend Governing Board Policies 96-03, “Internet Access and Presence;” and 06-02, “Authority of District Counsel;” and delete Governing Board Policy, 04-01, “District Counsel Electronic Communication, Electronic Documents, Attorney Client Privilege, and Work Product Privilege.”

SUMMARY: This item amends existing Governing Board Policies 96-03 and 06-02, incorporating provisions from deleted Governing Board Policy 04-01.

CONFLICT OF INTEREST: None

BACKGROUND: In the effort to keep the Board familiar with the policies and practices which have been adopted to direct staff action and to facilitate the conduct of the business of the District these policies will be presented to the Board from time to time with recommendations for amendments if such are needed.

The history of each of these Governing Board Policies and the recommended revisions are further described in the following Exhibit 1. The recommended actions include streamlining the title, updating the policy amplification, and deleting Governing Board Policy 04-01. The relevant portions of Governing Board Policy 04-01, regarding protecting attorney privilege in electronic communications, are proposed to be distributed to Governing Board Policy 96-03 and Governing Board Policy 06-02.

REASON FOR RECOMMENDATION: Governing Board action is necessary to approve changes to the policies of the Governing Board.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Jean Bracy, Deputy Director – Administration

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #5

PAGE 2

Exhibit 1

Governing Board Policy 06-02 is the Governing Board Policy that delineates the authority of the District Counsel.

History

This policy was developed and adopted by the Governing Board August 28, 2006. Prior to that time the Board delegated authority to District Counsel was contained in a number of disparate policies. When the District Counsel retired the Governing Board as part of its reallocation of legal services (namely the appointment of Karen K. Nowak as District Counsel and contract for Special Council for the Governing Board with BBK Law) consolidated these policies into Governing Board Policy 06-02..

Recommended Revisions

The proposed revision inserts language that acknowledges the District will appropriate resources to ensure reasonable precautions are taken to maintain attorney/client privileges. This proposed change will reassert the Governing Board's intent currently contained in Governing Board Policy 04-01. Additional administrative changes are suggested to update language and formatting.

Governing Board Policy 96-03 is the Governing Board Policy that authorized the District to establish a presence on the internet. In the 21 years since the policy was adopted internet presence is not only vital, it is now required by law for public agencies; this policy is long overdue to be updated.

History

The Governing Board adopted GB Policy 96-03 on June 24, 1996 at a time when widespread and common use of individual computers as well as the internet was developing at a rapid pace. The initial policy directed staff to establish and maintain an internet presence as available. The policy was revised on January 26, 2012 as a course of updating vernacular, concepts and formatting.

Recommended Revisions

The proposed revision restates the title and expands the scope of the policy.

- “Internet Access and Presence” is a regular part of the business interests of the District in the 21st Century. A new title, “District Technological Resources,” speaks to the deployment and use of appropriate technological resources. The range of devices and resources that become available changes on a regular basis; “technological resources” is intended to be inclusive to the extent possible.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #5

PAGE 3

- As a policy of the Governing Board, the revisions acknowledge that there is no inherent expectation of privacy for communications occurring on or with District-owned technological resources.
- In addition, the revision addresses recent court rulings that use of personal devices for agency communication potentially subjects those devices to the California Public Records Act.
- Finally, the revisions acknowledge that all communications with the Office of District Counsel are presumed to be covered by attorney/client privilege and will be treated as such. This proposed addition will incorporate the Board's intent to keep such communications privileged and confidential which is currently contained in Governing Board Policy 04-01.

Governing Board Policy 04-01 is the Governing Board Policy that was developed and adopted to address the potential vulnerabilities to attorney/client privilege through the expanding use of electronic communications.

History

This policy was presented to the Governing Board and adopted on February 23, 2004 and has not been revised since adoption. Essentially the policy statement acknowledges preserving attorney/client privilege for all communications and work product for the Office of District Counsel, in electronic form.

Recommendation

Staff recommends deleting this policy. A large portion of this GB Policy contains the recitation of California Penal Code §502, "Unauthorized access to computers, computer systems and computer data" and as such is superfluous. Recommended revisions to **GB Policy 06-02**, "Authority of District Counsel," and **GB Policy 96-03**, (new title) "District Technological Resources," include relevant portions of **GB Policy 04-01** policy statement with additional updated language.

A final of the proposed version of each policy is included as well as a REDLINED draft which indicates the proposed changes from the current version. The format has been changed to add a signature line for the Executive Director which effectively acknowledges the Board's delegation of the Governing Board Policy. The revision history has been moved to the end of the document.

GOVERNING BOARD POLICY
Mojave Desert Air Quality Management District

Policy No: 96-03
Amended: October 23, 2017

[Chair Name]
Governing Board Chair

Brad Poiriez
Executive Director/APCO

SUBJECT: DISTRICT TECHNOLOGICAL RESOURCES

POLICY:

It is the policy of the Governing Board of the Mojave Desert Air Quality Management District (District) to encourage and foster active communications with citizens, the regulated community, public groups, schools, and other governmental agencies as well as increase employee efficiency and productivity through the deployment and use of appropriate technological resources.

AMPLIFICATION OF POLICY:

There is no inherent expectation of privacy for communications occurring on or in the use of District technological resources. All communications and use of District-provided technological resources are subject to the California Public Records Act (Government Code §§6250 et. seq).

Use of personal technological resources for the conduct of District business should be limited and will potentially be subject to the California Public Records Act. If at all possible use of personal technological resources should be performed in such a manner as to create an official record on District technological resources or pursuant to an official District Policy/Standard Practice.

Occasionally specific communications and/or use of District technological resources may be exempt from disclosure pursuant to the California Public Records Act or be otherwise privileged. Such items should be clearly identified as privileged or exempt from disclosure and reasonable precautions shall be taken to ensure that such privilege/exemption is not inadvertently waived.

All communications with and by the Office of District Counsel are presumed to be covered by attorney/client privilege and will be treated as such. All use of District technological resources by Office of District Counsel is presumed to be covered by attorney work product privilege and will be treated as such. Reasonable precautions shall be taken to ensure that these privileges are maintained. Applicable privileges and/or exemptions from disclosure shall not be deemed to be waived if access to District technological resources assigned to Office of District Counsel is obtained upon Direct written order of the Governing Board, Direct written order of the Air Pollution Control Officer (APCO), Order of a court of competent jurisdiction, and/or At the direction or with the consent of District Counsel.

The APCO is authorized to develop Standard Practices as appropriate and necessary to implement this policy.

Revision History:

Adopted: June 24, 1996

Amended: January 23, 2012

Last review: October 23, 2017

GOVERNING BOARD POLICY
Mojave Desert Air Quality Management District

Policy No: 96-03
Amended: October 23, 2017

[Chair Name]
Governing Board Chair

Brad Poiriez
Executive Director/APCO

Policy No: 96-03
Effective Date: June 24, 1996

Adopted: June 24, 1996
Amended: January 23, 2012

/s/
Brad Mitzelfelt, Chair

Last Review: January 26, 2015

SUBJECT: INTERNET ACCESS AND PRESENCE DISTRICT TECHNOLOGICAL RESOURCES

POLICY:

It is the policy of the Governing Board of the Mojave Desert Air Quality Management District (District) to encourage and foster active communications with citizens, the regulated community, public groups, schools, and other governmental agencies as well as increase employee efficiency and productivity through utilization of and presence on the Internet the deployment and use of appropriate technological resources.

AMPLIFICATION OF POLICY:

There is no inherent expectation of privacy for communications occurring on or in the use of District technological resources. All communications and use of District-provided technological resources are subject to the California Public Records Act (Government Code §§6250 et. seq). The Air Pollution Control Officer (APCO) is authorized to develop and maintain a District presence on the Internet subject to budget appropriations.

Use of personal technological resources for the conduct of District business should be limited and will potentially be subject to the California Public Records Act. If at all possible use of personal technological resources should be performed in such a manner as to create an official record on District technological resources or pursuant to an official District

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Policy/Standard Practice. The APCO is responsible for ensuring that information presented by the District on the Internet is useful, practical, timely and otherwise appropriate.

Occasionally specific communications and/or use of District technological resources may be exempt from disclosure pursuant to the California Public Records Act or be otherwise privileged. Such items should be clearly identified as privileged or exempt from disclosure and reasonable precautions shall be taken to ensure that such privilege/exemption is not inadvertently waived. The APCO shall ensure that the District's Internet presence is used to comply with all applicable statutory and regulatory mandates which require posting of information on the District's website.

All communications with and by the Office of District Counsel are presumed to be covered by attorney/client privilege and will be treated as such. All use of District technological resources by Office of District Counsel is presumed to be covered by attorney work product privilege and will be treated as such. Reasonable precautions shall be taken to ensure that these privileges are maintained. Applicable privileges and/or exemptions from disclosure shall not deemed to be waived if access to District technological resources assigned to Office of District Counsel is obtained upon Direct written order of the Governing Board, Direct written order of the Air Pollution Control Officer (APCO), Order of a court of competent jurisdiction, and/or At the direction or with the consent of District Counsel. The APCO may allow District employees to utilize the Internet for District purposes. If such usage is allowed the APCO shall develop a Standard Practice regarding employee usage of the Internet.

The APCO is authorized to develop Standard Practices as appropriate and necessary to implement this policy.

Revision History:

Adopted: June 24, 1996

Amended: January 23, 2012

Last review: October 23, 2017

GOVERNING BOARD POLICY
Mojave Desert Air Quality Management District
Policy No: 06-02
Amended: October 23, 2017

[Chair Name]
Governing Board Chair

Brad Poiriez
Executive Director/APCO

SUBJECT: Authority of District Counsel

POLICY:

The Governing Board of the Mojave Desert Air Quality Management District (District) is required by statute to appoint legal counsel (Health & Safety Code §41626). The Governing Board has created the position and appoints District Counsel to satisfy this requirement. It is the policy of the Governing Board of the District to clearly define and indicate the authority of the District Counsel.

AMPLIFICATION OF POLICY:

A. General

1. The District Counsel generally serves as the legal advisor to the Governing Board, the Executive Director/Air Pollution Control Officer (APCO), District Management and any Boards, Commissions and Committees of the District.
2. The Governing Board can, at its discretion, retain special counsel for specific enumerated purposes. When retained, the special counsel will serve in the legal capacity as enumerated by the Governing Board.
3. The District Counsel shall report to the APCO unless the Governing Board specifically requests or requires action on the part of District Counsel, in which case the District Counsel shall report to the Chair of the Governing Board for the duration and scope of the action requested.
4. The District Counsel is the legal advisor to the District's executive management team.

5. Appropriate resources will be provided and appropriate safeguards shall be implemented to ensure that reasonable precautions are taken to obtain and maintain attorney/client privilege; attorney work product privilege and other applicable privileges and/or evidentiary exemptions from disclosure. *[Inserted from deleted GB Policy 04-01]*

B. Formal Written Opinions

1. Formal written opinions are maintained and provide a precedent and legal basis upon which District decisions should be based.
2. Formal written opinions may be provided by special counsel regarding the particular purposes for which the special counsel is retained.
3. Governing Board members and the APCO are authorized to request formal written opinions. Governing Board members shall make their requests through the Chair of the Governing Board. Other District staff members shall make their requests through the APCO.

C. Incurring, Review and Payment of Costs.

1. The District Counsel may incur costs on behalf of the District to the extent authorized by law and Governing Board Policy 95-3.
2. The District Counsel is authorized to review and approve claims and requests for reimbursement incurred by Governing Board Members, Hearing Board Members, Members of the Technical Advisory Committee, and the APCO. Such claims and requests for reimbursement shall be reviewed and approved in accordance with current District policy, practice and procedure.
3. The District Counsel is authorized to review and approve bills, invoices or other statements of costs for services performed by outside legal counsel. Such review shall be conducted in consultation with the APCO and in conjunction with any other review required by current District policy, practice and procedure regarding the payment of costs.
 - a. Legal services can be one of the most expensive forms of services. The review by District Counsel is intended to ensure a thorough and proper review of costs for legal services and to allow for recommendations to be made to keep the cost of such services in proportion with the nature of the particular task to be performed.
 - b. Notwithstanding the authorization granted in paragraph 3 above, the Governing Board upon its own motion may authorize payment for any legal services performed by outside counsel retained by the District.

D. Litigation Authority

1. District Counsel is authorized to act on behalf of the Governing Board to direct and control the prosecution and defense of all litigation to which the District is a party unless the Governing Board has retained special counsel for the particular purpose of conducting specific litigation on behalf of the Governing Board or the District.
 - a. Health & Safety Code §40701(b) provides the District has the power to sue and be sued in its own name in all actions and proceedings in all courts and tribunals of competent jurisdiction. Control of such litigation generally rests with the Governing Board.
 - b. In litigation it is many times necessary to complete legal procedures at a time when the Governing Board is not in session.
 - c. District Counsel, or special counsel if retained for specific litigation, is authorized to prosecute, defend, or arbitrate, any litigation provided, however, that such matters shall be brought to the Governing Board's attention as soon as practicable and that the Governing Board shall be kept advised of the status of such litigation. Any settlement or compromise of litigation is subject to the ratification of the Governing Board.
2. Litigation commenced pursuant to the statutory authority of the APCO to observe and enforce air pollution control laws (Health & Safety Code §40752) and the prosecutorial authority of the District Counsel (Health & Safety Code §42403(a)) is not subject to the provisions of paragraph D.1. above.

Revision History:

Adopted: August 28, 2006

Last review: October 23, 2017

GOVERNING BOARD POLICY
Mojave Desert Air Quality Management District

Policy No: 06-02
Amended: October 23, 2017

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[Chair Name]
Governing Board Chair

Brad Poiriez
Executive Director/APCO

Policy No: 06-02
Effective Date:

Adopted: August 28, 2006
Amended:

/s/
Robert J. Leone, Chair

Last Review: January 26, 2015

SUBJECT: Authority of District Counsel

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case the District Counsel shall report to the Chair of the Governing Board for the duration and scope of the action requested.

4. The District Counsel is the legal advisor to the District's executive management team.
5. Appropriate resources will be provided and appropriate safeguards shall be implemented to ensure that reasonable precautions are taken to obtain and maintain attorney/client privilege; attorney work product privilege and other applicable privileges and/or evidentiary exemptions from disclosure. ~~Inserted from deleted GB Policy 04-01~~

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 - a. Legal services can be one of the most expensive forms of services. The review by District Counsel is intended to ensure a thorough and proper review of costs for legal services and to allow for recommendations to be

made to keep the cost of such services in proportion with the nature of the particular task to be performed.

- b. Notwithstanding the authorization granted in paragraph 3 above, the Governing Board upon its own motion may authorize payment for any legal services performed by outside counsel retained by the District.

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1. District Council is authorized to act on behalf of the Governing Board to direct and control the prosecution and defense of all litigation to which the District is a party unless the Governing Board has retained special counsel for the particular purpose of conducting specific litigation on behalf of the Governing Board or the District.
 - a. Health & Safety Code §40701(b) provides the District has the power to sue and be sued in its own name in all actions and proceedings in all courts and tribunals of competent jurisdiction. Control of such litigation generally rests with the Governing Board.
 - b. In litigation it is many times necessary to complete legal procedures at a time when the Governing Board is not in session.
 - c. District Council, or special counsel if retained for specific litigation, is authorized to prosecute, defend, or arbitrate, any litigation provided, however, that such matters shall be brought to the Governing Board's attention as soon as practicable and that the Governing Board shall be kept advised of the status of such litigation. Any settlement or compromise of litigation is subject to the ratification of the Governing Board.
2. Litigation commenced pursuant to the statutory authority of the APCO to observe and enforce air pollution control laws (Health & Safety Code §40752) and the prosecutorial authority of the District Council (Health & Safety Code §42403(a)) is not subject to the provisions of paragraph D.1. above.

Revision History:

Adopted: August 28, 2006

Last review: October 23, 2017

~~“Electronic” is defined as having the meaning provided in California Civil Code § 1633.2 specifically, “related to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.” Civil Code §1633.2 is attached hereto as Exhibit “B” and incorporated herein by reference with the intent that it shall be deemed to be automatically amended to conform to California Civil Code §1633.2 as hereafter amended.~~

~~Reasonable Precaution: In order to claim attorney client or attorney work product privilege in the event of inadvertent waiver, the District and the Office of District Counsel are required to take reasonable precautions to protect the security of electronic communication and electronic document produced by the Office of District Counsel.~~

~~Declarations: The District computer network is, and shall continue to be, set up in such a manner as to protect the Office of District Counsel from unauthorized access to its electronic communication and document from internal and external disclosure.~~

~~The Governing Board declares that employees are not acting within the course and scope of their employment with the District if and when any employees access the communication or document of the Office of District Counsel absent one or more of the following:~~

- ~~1. Action of the Governing Board;~~
- ~~2. Order of a Court of Competent Jurisdiction; or~~
- ~~3. Consent of the District Counsel~~

~~Any employee who knowingly and without permission accesses the electronic communication or document of the Office of District Counsel outside the course or scope of employment will be subject to disciplinary or other adverse action up to and including termination of employment. In addition, such a person can be independently prosecuted under California Penal Code §502 or other applicable statutes.~~

~~Notwithstanding the previous paragraphs, during the performance of their duties, network and computer operations personnel and system administrators need from time to time to observe certain transactional addressing information to ensure proper functioning of email services, and on these and other occasions may inadvertently see the contents of email messages. They are not permitted to see or read the contents intentionally; to read transactional information where not germane to the foregoing purpose; or disclose or otherwise use what they have seen. One exception is that of systems personnel (such as “postmasters”) who may need to inspect email when re-routing or disposing of otherwise undeliverable email. This exception is limited to the least invasive level of inspection required to perform such duties. Furthermore, this exception does not exempt postmasters from the prohibition against disclosure of personal and confidential information, except insofar as such disclosure equates with good faith attempts to route the otherwise undeliverable email to the intended recipient. Re-routed mail normally should be accompanied by notification to the recipient that the email has been inspected for such purposes.~~

~~Attachments:~~

- ~~Exhibit A, Penal Code §502~~
- ~~Exhibit B, Civil Code §1633.2~~

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Exhibit A

WEST'S ANNOTATED CALIFORNIA CODES
PENAL CODE
PART 1. OF CRIMES AND PUNISHMENTS
TITLE 13. OF CRIMES AGAINST PROPERTY
CHAPTER 5. LARCENY [THEFT]

§ 502. Unauthorized access to computers, computer systems and computer data

(a) It is the intent of the Legislature in enacting this section to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems. The Legislature finds and declares that the proliferation of computer technology has resulted in a concomitant proliferation of computer crime and other forms of unauthorized access to computers, computer systems, and computer data.

The Legislature further finds and declares that protection of the integrity of all types and forms of lawfully created computers, computer systems, and computer data is vital to the protection of the privacy of individuals as well as to the well-being of financial institutions, business concerns, governmental agencies, and others within this state that lawfully utilize those computers, computer systems, and data.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Access" means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network.

(2) "Computer network" means any system that provides communications between one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

(3) "Computer program or software" means a set of instructions or statements, and related data, that when executed in actual or modified form, cause a computer, computer system, or computer network to perform specified functions.

(4) "Computer services" includes, but is not limited to, computer time, data processing, or storage functions, or other uses of a computer, computer system, or computer network.

(5) "Computer system" means a device or collection of devices, including support devices and excluding calculators that are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(6) "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. Data may be in any form, in storage media, or as stored in the memory of the computer or in transit or presented on a display device.

(7) "Supporting documentation" includes, but is not limited to, all information, in any form, pertaining to the design, construction, classification, implementation, use, or modification of a computer, computer system, computer network, computer program, or computer software, which information is not generally available to the public and is necessary for the operation of a computer, computer system, computer network, computer program, or computer software.

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~~(8) "Injury" means any alteration, deletion, damage, or destruction of a computer system, computer network, computer program, or data caused by the access, or the denial of access to legitimate users of a computer system, network, or program.~~

~~(9) "Victim expenditure" means any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, deleted, damaged, or destroyed by the access.~~

~~(10) "Computer contaminant" means any set of computer instructions that are designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the computer, computer system, or computer network.~~

~~(11) "Internet domain name" means a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the rightmost character string specifying the top of the hierarchy.~~

~~(c) Except as provided in subdivision (h), any person who commits any of the following acts is guilty of a public offense:~~

~~(1) Knowingly accesses and without permission alters, damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort, or (B) wrongfully control or obtain money, property, or data.~~

~~(2) Knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network, or takes or copies any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network.~~

~~(3) Knowingly and without permission uses or causes to be used computer services.~~

~~(4) Knowingly accesses and without permission adds, alters, damages, deletes, or destroys any data, computer software, or computer programs which reside or exist internal or external to a computer, computer system, or computer network.~~

~~(5) Knowingly and without permission disrupts or causes the disruption of computer services or denies or causes the denial of computer services to an authorized user of a computer, computer system, or computer network.~~

~~(6) Knowingly and without permission provides or assists in providing a means of accessing a computer, computer system, or computer network in violation of this section.~~

~~(7) Knowingly and without permission accesses or causes to be accessed any computer, computer system, or computer network.~~

~~(8) Knowingly introduces any computer contaminant into any computer, computer system, or computer network.~~

~~(9) Knowingly and without permission uses the Internet domain name of another individual, corporation, or entity in connection with the sending of one or more electronic mail messages, and thereby damages or causes damage to a computer, computer system, or computer network.~~

~~(d)(1) Any person who violates any of the provisions of paragraph (1), (2), (4), or (5) of subdivision (c) is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(2) Any person who violates paragraph (3) of subdivision (c) is punishable as follows:~~

~~(A) For the first violation that does not result in injury, and where the value of the computer services used does not exceed four hundred dollars (\$400), by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(B) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000) or in an injury, or if the value of the computer services used exceeds four hundred dollars (\$400), or for any second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(3) Any person who violates paragraph (6) or (7) of subdivision (c) is punishable as follows:~~

~~(A) For a first violation that does not result in injury, an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).~~

~~(B) For any violation that results in a victim expenditure in an amount not greater than five thousand dollars (\$5,000), or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(C) For any violation that results in a victim expenditure in an amount greater than five thousand dollars (\$5,000), by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both that fine and imprisonment, or by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(4) Any person who violates paragraph (8) of subdivision (c) is punishable as follows:~~

~~(A) For a first violation that does not result in injury, a misdemeanor punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.~~

~~(5) Any person who violates paragraph (9) of subdivision (c) is punishable as follows:~~

~~(A) For a first violation that does not result in injury, an infraction punishable by a fine not one thousand dollars.~~

~~(B) For any violation that results in injury, or for a second or subsequent violation, by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.~~

~~(e)(1) In addition to any other civil remedy available, the owner or lessee of the computer, computer system, computer network, computer program, or data who suffers damage or loss by reason of a violation of any of the provisions of subdivision (c) may bring a civil action against the violator for compensatory damages and injunctive relief or other equitable relief. Compensatory damages shall include any expenditure reasonably and necessarily incurred by the owner or lessee to verify that a computer system, computer network, computer program, or data was or was not altered, damaged, or deleted by the access. For the purposes of actions authorized by this subdivision, the conduct of an unemancipated minor shall be imputed to the parent or legal guardian having control or custody of the minor, pursuant to the provisions of Section 1714.1 of the Civil Code.~~

~~(2) In any action brought pursuant to this subdivision the court may award reasonable attorney's fees.~~

~~(3) A community college, state university, or academic institution accredited in this state is required to include computer related crimes as a specific violation of college or university student conduct policies and regulations that may subject a student to disciplinary sanctions up to and including dismissal from the academic institution. This paragraph shall not apply to the University of California unless the Board of Regents adopts a resolution to that effect.~~

~~(4) In any action brought pursuant to this subdivision for a willful violation of the provisions of subdivision (c), where it is proved by clear and convincing evidence that a defendant has been guilty of oppression, fraud, or malice as defined in subdivision (c) of Section 3294 of the Civil Code, the court may additionally award punitive or exemplary damages.~~

~~(5) No action may be brought pursuant to this subdivision unless it is initiated within three years of the date of the act complained of, or the date of the discovery of the damage, whichever is later.~~

~~(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction, nor shall it make illegal any employee labor relations activities that are within the scope and protection of state or federal labor laws.~~

~~(g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.~~

~~(h)(1) Subdivision (c) does not apply to punish any acts which are committed by a person within the scope of his or her lawful employment. For purposes of this section, a person acts within the scope of his or her employment when he or she performs acts which are reasonably necessary to the performance of his or her work assignment.~~

~~(2) Paragraph (3) of subdivision (c) does not apply to penalize any acts committed by a person acting outside of his or her lawful employment, provided that the employee's activities do not cause an injury, as defined in paragraph (8) of subdivision (b), to the employer or another, or provided that the value of supplies or computer services, as defined in paragraph (4) of subdivision (b), which are used does not exceed an accumulated total of one hundred dollars (\$100).~~

~~(i) No activity exempted from prosecution under paragraph (2) of subdivision (h) which incidentally violates paragraph (2), (4), or (7) of subdivision (c) shall be prosecuted under those paragraphs.~~

~~(j) For purposes of bringing a civil or a criminal action under this section, a person who causes, by any means, the access of a computer, computer system, or computer network in one jurisdiction from another jurisdiction is deemed to have personally accessed the computer, computer system, or computer network in each jurisdiction.~~

~~(k) In determining the terms and conditions applicable to a person convicted of a violation of this section the court shall consider the following:~~

~~(1) The court shall consider prohibitions on access to and use of computers.~~

~~(2) Except as otherwise required by law, the court shall consider alternate sentencing, including community service, if the defendant shows remorse and recognition of the wrongdoing, and an inclination not to repeat the offense.~~

~~CREDIT(S)~~

~~(Added by Stats.1987, c. 1499, § 3. Amended by Stats.1989, c. 1076, § 1; Stats.1989, c. 1110, § 1; Stats.1989, c. 1357, § 1.3; Stats.1998, c. 863 (A.B.1629), § 3; Stats.1999, c. 254 (A.B.451), § 3; Stats.2000, c. 634 (A.B.2232), § 1; Stats.2000, c. 635 (A.B.2727), § 2.)~~

~~Current through Chs. 1 to 10 & Res. Ch. 1 of 2004 Reg.Sess., Ch. 1 (end) of 3rd Ex.Sess., Chs. 1 & 2 (Prop. 57) & Res. Ch. 1 (Prop 58) of 5th Ex.Sess., & Props. 55 & 56~~

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Exhibit B

~~WEST'S ANNOTATED CALIFORNIA CODES
CIVIL CODE
DIVISION 3. OBLIGATIONS
PART 2. CONTRACT
TITLE 2.5. ELECTRONIC TRANSACTIONS
§ 1633.2. Definitions~~

~~In this title the following terms have the following definitions:~~

~~(a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.~~

~~(b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.~~

~~(c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.~~

~~(d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this title and other applicable law.~~

~~(e) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.~~

~~(f) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review by an individual.~~

~~(g) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.~~

~~(h) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.~~

~~(i) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.~~

~~(j) "Information" means data, text, images, sounds, codes, computer programs, software, data bases, or the like.~~

~~(k) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.~~

~~(l) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.~~

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~~(m) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.~~

~~(n) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.~~

~~(o) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.~~

CREDIT(S)

~~(Added by Stats. 1999, c. 428 (S.B. 820), § 1.)~~

~~Current through Chs. 1 to 10 & Res. Ch. 1 of 2004 Reg.Sess., Ch. 1 (end) of 3rd Ex.Sess., Chs. 1 & 2 (Prop. 57) & Res. Ch. 1 (Prop. 58) of 5th Ex.Sess., & Props. 55 & 56~~

The following page(s) contain the backup material for Agenda Item: [Receive and file the revised "Carl Moyer Program Policies & Procedures Manual" incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from the California Air Resources Board \(CARB\) and certain administrative updates. Presenter: Jean Bracy](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #6

DATE: October 23, 2017

RECOMMENDATION: Receive and file the revised “Carl Moyer Program Policies & Procedures Manual” incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from the California Air Resources Board (CARB) and certain administrative updates.

SUMMARY: This item acknowledges the revised “Carl Moyer Program Policies & Procedures Manual” incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from CARB and certain administrative updates.

CONFLICT OF INTEREST: None

BACKGROUND: The purpose of the Carl Moyer Program is to reduce emissions by providing grants for the incremental cost of cleaner heavy-duty vehicles and equipment. Participating Districts are required to produce a Policies & Procedures Manual consistent with Carl Moyer Program Guidelines. Periodically CARB releases updates to the Guidelines and the District last revised the Policies & Procedures on August 27, 2011.

On April 25, 2016, the Governing Board delegated authority to the Executive Director to revise work plans to reflect administrative changes in the CARB guidelines. The program history and key provisions that were revised in the 2017 guidelines are noted in Exhibit 1. A redline version of the changes are also attached.

The District’s grant program administration is currently under review and from time to time additional revisions may be applied as the program continues to develop.

REASON FOR RECOMMENDATION: Receive and file.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is required to make these revisions.

PRESENTER: Jean Bracy, Deputy Director - Administration

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #6

PAGE 2

Exhibit 1

Program History

Established in 1998, the Carl Moyer Program is a state grant program that funds the incremental cost of cleaner-than-required heavy-duty engines and equipment. Public or private entities that operate eligible engines and/or equipment in California can apply for grant funding through their participating local air pollution control or air quality management districts (Districts). Examples of eligible engines and equipment include heavy-duty on-road and off-road, marine, locomotive, stationary agricultural pumps, and airport ground support equipment.

The Carl Moyer Program was originally designed to provide funds for significant near-term, surplus reductions in emissions of oxides of nitrogen (NO_x), a smog-forming pollutant. These reductions are necessary for California to meet its clean air commitments under the State Implementation Plan (SIP) and for Districts to meet commitments in their conformity plans, thus preventing the loss of federal highway funds for local areas throughout California. The program also provides reductions of particulate matter (PM) emissions, which are a component of diesel engine exhaust and have been identified as a toxic air contaminant. Beginning in 2005, ARB incorporated reactive organic gases (ROG) reductions into Carl Moyer Program, as stipulated in AB923.

The District has participated in the Carl Moyer Program since its inception. Historically, project proposals have been accepted and approved on a first come, first served basis.

2017 Carl Moyer Program Revisions

1. To address evolving needs the Legislature has periodically modified the Program to better serve California. Most recently SB 513 (Beall, 2015) has provided new opportunities for the Program to contribute significant emission reductions alongside implemented regulations, advanced zero and near zero-technologies, and to combine program funds with those of other incentive programs. Three key changes to the program include:
 - SB 513 specified that the Board consider the cost of technology and the cost of regulations in establishing a new cost-effectiveness limit thus providing districts options to apply a cost-effectiveness limit for more recent regulations and a cost-effectiveness limit for advanced technology projects that are zero-emission, or alternatively meet the cleanest certified optional standard. The higher limit will provide additional incentive to turn engines and fleets over to the cleanest certified technologies now emerging in the marketplace.
 - SB 513 provides broader opportunity for air districts to support infrastructure projects. Air districts retain the flexibility to select projects that meet their local needs and priorities.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #6

PAGE 3

- SB 513 also allows for the leveraging of funds by working with applicants to co-fund projects with other incentive programs up to the cost of the project with the exception that private sector projects contribute a minimum of 15 percent cost share.
2. Districts now have four years to fully expend (liquidate) the project funds; extending the time to spend the funds awarded by two years.
 3. This Policies and Procedures Manual now states that applications will be accepted on a continual basis (Section X, p.7) and allows a Call for Projects solicitation if circumstances warrant that method. Application review has been extended from five days to 30 working days. Projects eligible for Moyer grant funds are often complex and require considerable evaluation and review with the applicant.
 4. Various administrative revisions have been applied to the formatting, to update the language, and to align with District practices.

The District's grant program administration is currently under review and from time to time additional revisions may be applied as the program continues to develop.



Mojave Desert Air Quality
Management District

Carl Moyer Program Policies & Procedures Manual

August 27, 2012
October 2, 2017

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VICTORVILLE, CA 92392
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Carl Moyer Program Policies & Procedures Manual
TABLE OF CONTENTS

I.....	PURPOSE	1
II.....	BACKGROUND	1
III.....	PROGRAM TIMELINE /ARB APPLICATION & AWARD PROCESS	2
IV.....	CORRESPONDENCE WITH ARB	<u>32</u>
V.....	MATCHING FUNDS	<u>43</u>
VI.....	PROCEDURE FOR OBTAINING MOYER FUNDS FROM ARB	4
VII.....	DISBURSEMENT OF FUNDS BY ARB	<u>54</u>
VIII.....	PROGRAM OUTREACH	<u>65</u>
IX.....	PROGRAM SOLICITATION	6
X.....	APPLICATION REVIEW/EVALUATION/PROJECT SELECTION	<u>76</u>
XI.....	GOVERNING BOARD APPROVAL	<u>97</u>
XII.....	GENERAL CARL MOYER PROGRAM IMPLEMENTATION	<u>97</u>
XIII.....	PROJECT CATEGORIES	<u>108</u>
XIV.....	PROJECT FILE SET UP AND MAINTENANCE	<u>108</u>
XV.....	INSPECTIONS	9

XVI.	GRANT AGREEMENTS	10
XVII.	EXPENDITURES: PROJECT REIMBURSEMENTS	<u>1240</u>
XVIII.	PROJECT MONITORING/NONPERFORMANCE	12
XIX.	FISCAL MANAGEMENT	13
XX.	INTEREST EARNED ON CMP FUNDS	<u>1846</u>
XXI.	DISTRICT RECORDKEEPING	16
XXII.	REPORTING TO ARB	16
APPENDIX A Sample Documents		A-1

Carl Moyer Program Policies & Procedures Manual

I. PURPOSE

~~The purpose of t~~This Policy and Procedure Manual ~~is to~~ provides guidance on how to implement the California Air Resources Board's (ARB) Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) to ensure fair and consistent decision-making, project selection, management, and tracking.

The requirements of the 2017~~+~~ Carl Moyer Program Guidelines are also incorporated by reference into this manual.

II. BACKGROUND

Established in 1998, the Carl Moyer Program is a state grant program that funds the incremental cost of cleaner-than-required heavy-duty engines and equipment. Public or private entities that operate eligible engines and/or equipment in California can apply for grant funding through their participating local air pollution control or air quality management districts (Districts). Examples of eligible engines and equipment include heavy-duty on-road and off-road, marine, locomotive, stationary agricultural pumps, and airport ground support equipment.

The Carl Moyer Program is designed to cost-effectively reduce smog-forming and toxic emissions from older polluting engines by offering incentives to off-set the cost of newer, cleaner engines and technologies. The regulatory, technological and incentives landscape has changed significantly since the creation of the Moyer Program. To address evolving needs, the Legislature has periodically modified the Program to better serve California. Most recently, Senate Bill (SB) 513 (Beall, 2015) has provided new opportunities for the Program to contribute significant emission reductions alongside implemented regulations, advanced zero and near zero-technologies, and to combine program funds with those of other incentive programs. Three key changes to the program: SB 513 specified that the Board consider the cost of technology and the cost of regulations in establishing a new cost-effectiveness limit thus providing districts options to apply a cost-effectiveness limit for more recent regulations and a cost-effectiveness limit for advanced technology projects that are zero-emission, or alternatively meet the cleanest certified optional standard. The higher limit will provide additional incentive to turn engines and fleets over to the cleanest certified technologies now emerging in the marketplace. SB 513 provides broader opportunity for air districts to support infrastructure projects. Air districts retain the flexibility to select projects that meet their local needs and priorities. SB 513 also allows for the leveraging of funds by working with applicants to co-fund projects with other incentive

Carl Moyer Program
Policies and Procedures Manual

~~08/13/12~~10/2/2017

programs up to the cost of the project with the exception that private sector projects contribute a minimum of 15 percent cost share.

~~The Carl Moyer Program was originally designed to provide funds for significant near-term, surplus reductions in emissions of oxides of nitrogen (NOx), a smog-forming pollutant. These reductions are necessary for California to meet its clean air commitments under the State Implementation Plan (SIP) and for Districts to meet commitments in their conformity plans, thus preventing the loss of federal highway funds for local areas throughout California. The program also provides reductions of particulate matter (PM) emissions, which are a component of diesel engine exhaust and have been identified as a toxic air contaminant. Beginning in 2005, ARB incorporated reactive organic gases (ROG) reductions into Carl Moyer Program, as stipulated in AB923.d~~

The ARB is responsible for developing the guidelines that Districts use to implement the program. Annually, the ARB allocates a portion of the available funding to Districts for local implementation of the program. The original Carl Moyer Program guidelines were revised in 2000, 2003, 2005, 2008, ~~and 2011~~ and 2017. ARB has issued program advisories to provide interim guidance between guideline revisions (see http://www.arb.ca.gov/msprog/moyer/advisories_005/advisories_005.htm) These guidelines have been revised to reflect updates described in the “Carl Moyer Program Guidelines, 2017 Revisions.”

The Mojave Desert Air Quality Management District (MDAQMD) has participated in the Carl Moyer Program since its inception. Historically, project proposals have been accepted and approved on a first come, first served basis.

III. PROGRAM TIMELINE /ARB APPLICATION & AWARD PROCESS

Generally, the following outlines the Carl Moyer Program timeline:

Mid September	ARB provides the tentative award amount to the District and solicits an application for funds
By end of January	ARB sends application packet to air districts with notice of tentative Program Award amount.
Early December	District submits application to ARB with a copy of current Carl Moyer Program Policies & Procedures Manual.
By end of March	MDAQMD Governing Board approves tentative Program Award amount and District submits application packet to ARB.
January 30th	ARB sends the Carl Moyer Program Award documents to the District. District submits to ARB, MDAQMD

~~Governing Board approved resolution accepting the grant award. The authorized official, generally, the Executive Director signs and submits Carl Moyer Program Award documents to ARB. If previously disbursed Carl Moyer Program funds have been obligated to projects, staff prepares the current year's initial funding allocation request, obtains the Executive Director's signature, and submits to ARB.~~

By end of May

ARB notifies air districts of final Program Award along with Program Award documents. District staff prepares initial Program Award disbursement request for the current year's obligated projects. Executive Director executes the Program Award documents and submits to ARB along with MDAMQD Governing Board approved agenda item.

May 30th

~~In the event that all available Carl Moyer Program funds have not been awarded to eligible projects, a program solicitation may be issued.~~

By end of June

Air Districts receive disbursement request.

November 15th

~~District submits current round status report to ARB~~

August 31-June 30 following year

Annual Report ARB – funds must be obligated

August 31-June 30 of second-fourth year

Final Report to ARB – Projects completed and all funds expended

IV. CORRESPONDENCE WITH ARB

District staff shall document any correspondence with ARB staff regarding ARB interpretations, clarification, guidance or possible deviations from the Carl Moyer Program guidelines.

District staff will participate in the Carl Moyer Program Incentive Program Implementation (IPI) Team meetings coordinated by ARB staff. The meetings are held about every four months as needed. The IPI meetings give the District an opportunity to be involved in the formation of advisories and guideline modifications, be informed of the status of other local District Carl Moyer Program implementations as well as other ARB related activities.

V. MATCHING FUNDS

Air districts implementing the Carl Moyer Program must commit match funds equaling 15 percent of the State funds received. The District uses motor vehicle registration fees (AB 2766) to satisfy this requirement. To count as matching funds, motor vehicle registration fees must be used on motor vehicle projects as defined in the Carl Moyer Guidelines, which also include self propelled equipment like tractors and forklifts. AB 2766 (\$4 DMV) motor vehicle registration fees may not be used on locomotives or stationary sources. Up to 15% of the match requirement may be provided through unreimbursed “in kind services” (i.e.; the cost of District resources over and above the amount reimbursed by Carl Moyer Program administration funds). See additional details on matching fund requirements in the Program Administration chapter of the Carl Moyer Guidelines.

Once the MDAQMD Governing Board approves a project for Carl Moyer Program funding, District staff shall assign the Carl Moyer Program/matching funds as necessary to ensure that the District’s match requirement is met. District staff shall document those amounts and the specific sources of funds for each Grant Agreement on the Program Spreadsheet. A sample of the District’s program Spreadsheet is included in Appendix A. -Carl Moyer Program grant agreements do not specify whether the source of funding is program funding or match funding. It is the responsibility of District staff to ensure that state funds are obligated only to eligible projects, and matching funds are obligated to eligible projects and used in accordance with the restrictions in the Sections ~~11-I~~ and ~~12-J~~ of the Program Administration chapter of the Carl Moyer Program Guidelines.

As the Carl Moyer Program and matching funds are obligated to eligible projects, District staff shall update the “Administrative Information” section of the CARL database by entering the amount of state and matching funds and the specific sources of funds obligated for each project. The CARL database shall be updated for changes to funding sources that the District finds necessary.

VI. PROCEDURE FOR OBTAINING MOYER FUNDS FROM ARB

The ARB determines the tentative awards to Districts for each year in accordance with the formula identified in Health & Safety Code Section 44299.2(a). The ARB sends the solicitation packet to the Executive Director in ~~January~~~~mid-September~~. The application packet must be completed and submitted by the posted deadline, which is 60 days from the date of the solicitation. The application packet must include: The completed application with original signature; Documentation for the match commitment; MDAQMD Governing Board agenda item;- and a certification that the District’s Carl Moyer Policies and Procedures Manual is current and maintained on file with the

District. Detailed requirements for each of these items are included in the 2017+ Carl Moyer Program Guidelines, in the Program Administration section. The Carl Moyer Program representative for the District prepares the MDAQMD Governing Board agenda item requesting approval of the Carl Moyer Program application, completes the application packet, obtains the signature of the Executive Director, prepares a forwarding letter with the required attachments, and submits the application packet to ARB.

ARB determines the final award for the District. The award is incorporated into a Grant Award and Authorization form, which specifies the amount of the award for projects, the amount for District administrative costs, and the amount of matching funds the District must contribute. Two original Grant Award and Authorization forms are sent to the District. District staff obtains the Executive Director's signature on both originals and submits one original to ARB. The second original is retained with the District's copy of the forwarding letter. A copy of the Grant Award and Authorization form is submitted to Administrative Services for inclusion in the fiscal management files associated with the program. April 30 of each year is the deadline for acceptance of the grant award. As required in the grant award, the District must meet all application stipulations in order to accept an award. From June 30 following the full execution of the agreement, the District has 12 months to obligate funds and 24-48 months to expend the grant award. Any funds not expended within 24-48 months must be returned to ARB (Health and Safety Code sections 44287(k) and 44299.2(c)). If funds are to be returned to ARB a check request is sent to the county's Auditor/Controller. The Auditor/Controller issues the check to MDAQMD Administrative Services who then forwards the check to the ARB.

VII. DISBURSEMENT OF FUNDS BY ARB

To receive a disbursement of Carl Moyer Program funds, the District must submit a Grant Disbursement Request to ARB. The Grant Disbursement Request form is signed by the Executive Director. If there are stipulations on the Grant Award and Authorization form, all stipulations must be met prior to submitting the initial disbursement request. The District will seek its initial disbursement when and if all previous years Carl Moyer Program funds have been obligated to projects, or requests for the funding exceed available funding that the District has already received. For the initial disbursement, the District may request ten percent of its allocation or \$200,000, whichever is greater. If the District submits a request that documents the need for more than ten percent (10%) or \$200,000, to the satisfaction of ARB, a larger disbursement may be made. In addition, the District may request all of its administrative funds. The District will receive one check for both administration and project funds. However, the District must account for the administration and project funds separately. Prior to

receiving the initial disbursement, the District must submit documentation of the obligation and expenditure of previous years' Carl Moyer Program funds and required matching funds as follows:

- Expenditure of 100 percent of all Carl Moyer Program funds and required District match from allocations awarded two or more years previous. ARB may waive this requirement if expenditures from the previous years Carl Moyer Program are sufficient to compensate for unexpended funds from two or more years previous.
- Obligation of at least 90 percent of the previous years Carl Moyer Program and required match funds.

For additional disbursements of Carl Moyer Program funds, the District must submit a Grant Disbursement Request and provide documentation of obligation of previous and current years' funds as follows:

- Obligation of 100 percent of all previous years' funds, documented by entering the projects' information into the CARL database and the submission of the executed contracts for those projects.
- Obligation of 50 percent of the initial disbursement for the current year documented by entering the projects' information into the CARL database and submitting a copy of approval by board resolution or fully executed contracts. On a case-by-case basis, ARB may accept other documentation of the commitment to obligate current year's funds.

VIII. PROGRAM OUTREACH

Carl Moyer Program materials, District solicitations, individual program applications and other related materials shall be made available to the public through the District's website, or upon request. The following outreach efforts will be considered by District staff when releasing a solicitation for funding, or other incentive program information:

- ❖ Brochures/Program solicitations
- ❖ Carl Moyer Program mailing and email lists
- ❖ MDAQMD website: [www. MDAQMD.ca.gov](http://www.MDAQMD.ca.gov)
- ❖ Publish an article in the District Newsletter
- ❖ General news/ press releases and advertisements
- ❖ Contact engine manufacturer representatives
- ❖ Contact Trade Associations (e.g.; AGC, Farm Advisor, Farm Bureau)

IX. PROGRAM SOLICITATION

The District uses a variety of mechanisms to solicit projects. A ~~draft~~ Call for Projects ~~may~~ is be used by the District in the event that program funds are available (a sample-

included in Appendix A). It includes a general announcement and the application forms for each funding category for which project proposals are being solicited. District staff will issue additional solicitations, if necessary, until all funds are obligated.

X. APPLICATION REVIEW/EVALUATION/PROJECT SELECTION

~~Project applications for Carl Moyer Program funding will be accepted on a continual basis. Applicants shall be notified in writing as to any application deficiencies within thirty working days of receipt (Health and Safety Code section 44288 (a)). evaluated by MDAQMD staff and funded on a first-come, first-served basis based on adherence to the Carl Moyer Program Guidelines criteria. Moyer funds available at the end of May of the current grant year may be subject to a program solicitation. An exception to this process may occur if the total dollar amount of proposals received in the first five business days of proposal acceptance exceeds the amount of Carl Moyer Program funding available for that solicitation. In that case, proposals will be subject to competitive review based on cost-effectiveness, emission reductions achieved and any other criteria deemed appropriate by the MDAQMD Governing Board. Priority will be given to projects based within the District's boundaries or upon a project's operation time occurring within the District.~~

~~Applicants shall be notified in writing as to any application deficiencies within five working days of receipt (Health and Safety Code section 44288 (a)).~~

Projects potentially eligible for Carl Moyer Project funding are subject to the criteria and guidelines established by ARB. The District may establish more definitive or specific guidelines at the direction of the MDAQMD Governing Board. Senate Bill 513 provides new opportunities to co-fund Carl Moyer Program eligible projects with other funding sources. There is no limit on the number of co-funding sources to fund a project as long as total project costs are not exceeded and the applicant cost share requirement is met. Applicants must disclose all co-funding sources in their project application.

Eligibility and cost-effectiveness will be determined in accordance with the state Carl Moyer Program Guidelines. District staff will rely on the cost-effectiveness results generated by the CARL database as part of the eligibility determination. A pre-inspection will be conducted as part of the eligibility determination (see Section AW, Inspections of the Program Administration chapter of the 2017 Carl Moyer Guidelines). If necessary, staff will may ask ARB staff for case-by-case eligibility determinations.

Project eligibility is based on the current Carl Moyer Guidelines and cost-effectiveness results generated by the CARL database using the maximum project life allowed. For the

purpose of project selection, eligible projects shall be ranked by cost-effectiveness using a three year project life or the project term as proposed in the project application and emission reductions calculated using historical throughput/operation within the MDAQMD. The District retains the flexibility to select projects based on local needs, goals, and priorities including, but not limited to the most cost-effectiveness project.

~~On-road projects using exclusively alternative fuels or low-carbon fuels (as defined by ARB) shall be elevated in the ranking by reducing the numerical cost-effectiveness result by 50 percent. This adjustment to the cost-effectiveness rankings is made in light of the projects' greater proximity to populated areas and lower contribution to greenhouse gas emissions. No more than 50 percent of any year's total project funding shall be awarded to projects that were elevated in ranking pursuant to this paragraph.~~

~~The most cost-effective projects will be recommended for funding.~~

~~Eligible projects for which funding was not available shall be placed on a wait list in case funding becomes available.~~

~~The District will promptly notify successful applicants in writing that they have been approved by the MDAQMD Governing Board for funding. A sample copy of a notification letter is included in Appendix A.~~

Based on a successful application evaluation by District staff, selected projects will be recommended to the District Governing Board for funding approval. All projects adhering to Program criteria will be placed in a "Qualified Projects" file waiting selection and Board consideration.

Dependent upon the availability of funds and consideration of local priority, eligible projects will be presented to the Governing Board for funding consideration on a monthly basis. Staff will notify the applicant of the Governing Board meeting on when their Project will be considered for funding.

Eligible projects not selected shall remain active, in the "Qualified Project" file for District consideration at future Governing Board monthly meetings to determine possible funding. Applicants will be required to update their application information as well as vendor quote once the original application submittal date exceeds six months.

MDAQMD will continue to adhere to the funding limits pursuant to the Carl Moyer Program Guidelines. In addition, District retains flexibility to set funding percentages or maximum dollar awards for individual projects to increase the total number of projects funded. For specific project limitations, refer to the "Maximum Funding Limits of Eligible Costs for On-road and Off-road Projects," Table 1.

Funding Guidelines for Eligible Costs of On-road and Off-road Projects

Table 1

<u>Funding Guidelines for Eligible Costs</u>	<u>On-road & Off-road Projects</u>
<u>up to 80%</u>	<u>1st time applicants, 1st project</u>
<u>up to 50%</u>	<u>2nd project</u>
<u>up to 40% or (\$50,000 based on Governing Board evaluation/ consideration)</u>	<u>all subsequent projects</u>

(*Project Co-Funding – Private sector projects require a minimum 15 percent cost share, total incentives must not exceed the total project costs.)

As listed, the Funding Guidelines for Eligible Costs of On-road and Off-road Projects are “not to exceed” the eligible amount on which the grant award is calculated.

XI. GOVERNING BOARD APPROVAL

District staff will recommend projects to the MDAQMD Governing Board for funding approval. Carl Moyer Program grant funds will be deemed obligated upon MDAQMD Governing Board approval.

XII. GENERAL CARL MOYER PROGRAM IMPLEMENTATION

The ARB is in charge of issuing Carl Moyer Program guidelines and will provide guidance on project-specific questions when requested. The Carl Moyer Program guidelines (and advisories) developed by the ARB serve as the minimum requirements that all air Districts must use to structure local implementation of a Carl Moyer Program funding program. Air Districts may elect to set local standards that are more stringent than those developed by ARB but in no case shall the District Carl Moyer Program Policies and Procedures be less stringent than those established by ARB. Districts may fund only those projects that meet the Carl Moyer Program Guidelines and eligibility criteria, or those projects approved on a case-by-case basis by ARB staff. Current Carl Moyer Program Guidelines and advisories can be found at:

<http://www.arb.ca.gov/msprog/moyer/moyer.htm>

The MDAQMD Governing Board has authorized District staff to implement the program locally pursuant to the Carl Moyer Program Guidelines for those categories that have been approved by ARB and are applicable to the MDAQMD. If sufficient Carl Moyer Program funding is available, all projects evaluated and determined to be eligible under

the guidelines are presented to the MDAQMD Governing Board for consideration. Should requests for funding exceed funding available, all projects will be subject to competitive review. As part of the MDAQMD Governing Board's funding approval, the Executive Director requests to sign grants on the MDAQMD Governing Board's behalf, and the MDAQMD Governing Board approves budget changes necessary to accept and/or obligate funds.

XIII. PROJECT CATEGORIES

The District will accept applications for all project categories which apply to the MDAQMD as referenced in the current Carl Moyer Program Guidelines.

XIV. PROJECT FILE SET UP AND MAINTENANCE

Once a project application has been reviewed by District staff and deemed eligible under the Carl Moyer Program Guidelines, a project file will be established. Paper and electronic project files will include the following:

- ❖ Project application plus required documentation, i.e. quotes, executive orders, etc.
- ❖ Governing Board minute item approving award
- ❖ All correspondence
- ❖ Pre-inspection documentation (photos will be maintained electronically)
- ❖ Current insurance certificates
- ❖ Post-inspection documentation
- ❖ Reimbursement package (defined [herein sSection ~~IX~~XVII\)](#)
- ❖ Annual reporting documents

Project files will be retained subject to District retention policy, Standard Practice 4-5.

XV. INSPECTIONS

(A) Pre-Inspection:

Once an application is deemed eligible and before funds are obligated to a project, District staff shall conduct a pre-inspection. If requested by an engine manufacturer representative or potential applicant, District staff may elect to pre-inspect potentially qualifying equipment prior to application submittal.

During the pre-inspection, District staff must take photographs and confirm that the equipment functions and is in such a condition that it would be likely to continue in operation. Existing engines' serial number(s) shall be recorded and/or each existing engine shall be stamped with a unique number assigned by the District before the engine

is removed from the equipment. Alternatively, District staff may witness and document that the engine was permanently destroyed and rendered useless before it was removed from the equipment.

A pre-inspection form shall be created and placed in the project file that includes the photographs of each engine, serial number(s) and/or tag number(s) along with other pertinent information. An example of an inspection form is included in Appendix A.

Photographs shall be printed and included with the pre-inspection forms in the project file.

No work may begin on the project until after the pre-inspection is complete and the Grant Agreement is executed.

(B) Post-Inspection:

Post-inspections shall be completed on all projects funded under the Carl Moyer Program. Most projects will require more than one post-inspection because the delivered engine, repowered equipment, and the destroyed engines are usually in different locations.

Once the project proponent notifies the District that the project is complete and before making payment on any project, the District must conduct a post-inspection(s) to confirm and document that: 1) the new or repowered equipment is fully functional with the correct engine as specified in the project proposal. District staff shall require the grantee to start the engine on each new or repowered piece of equipment; 2) the new engine serial numbers match serial numbers on the invoices, and 3) the correct old engines have been destroyed in accordance with the specifications contained in the grant agreement. A post-inspection form shall be created and placed in the project file that includes the photographs, serial numbers and/or stamped identification numbers along with other pertinent information. This information and photographs must be documented in the post-inspection form along with other pertinent information. An example of a post-inspection form is included in Appendix A.

XVI. GRANT AGREEMENTS

Awarded projects will be secured with a contract between the grantee and the MDAQMD. District staff shall create a draft grant agreement for every project recommended to the MDAQMD Governing Board for funding. The current Carl Moyer Program Guidelines list minimum contract requirements that must be included in the grant agreement. Draft grant agreements are created from a standard grant agreement based on the requirements of the Carl Moyer Program Guidelines and as approved by District counsel. A sample grant agreement is included in Appendix A.

As part of the funding request, the Executive Director requests authorization to sign the grants on behalf of the MDAQMD Governing Board, and to make minor revisions to the grant. The project proposal is incorporated in the grant agreement as an attachment.

District staff generates two originals of the grant agreement. Following the MDAQMD Governing Board decision on projects, District staff obtains signatures on the approved grant agreements. An original of the fully executed grant agreement must be sent to the project proponent, ~~filed officer~~ Administration Services, Clerk of the Board Executive Office, and the project file.

If a grant amendment is required, District staff will determine if the amendment increases the total Carl Moyer Program funding amount for the project. If funding is increased District staff shall re-evaluate the eligibility, cost-effectiveness and any other applicable requirements to ensure that the project still complies with the most recent Carl Moyer Program Guidelines. District staff will also determine if that type of amendment has previously been approved by District counsel. If District counsel has not previously approved the type of revision required, the proposed revision is sent to District counsel for review.

Once an amendment has been approved by District counsel, District staff sends the project proponent two originals with a request to sign, date, and return them to the District. When the signed amendments are received, the Executive Director signs the originals and copies are distributed as noted above.

XVII. EXPENDITURES: PROJECT REIMBURSEMENTS

(A) Funds will be expended on a reimbursement basis. The following must be completed and/or submitted for reimbursement to be released to the grantee:

- ❖ Post-inspection
- ❖ Detailed invoice
- ❖ Insurance certificates
- ❖ Proof of payment to any/all vendors
- ❖ Proof of destruction for old engine

The District must receive an itemized invoice for a project before payment may be made. A project invoice must include enough detail to ensure only eligible project costs are being reimbursed. District staff shall review the itemized invoice and only pay for eligible expenses.

(B) Charges on repower projects are only eligible for funding if they are required to ensure the effective installation and functioning of the new engine, but are not part of typical vehicle or equipment maintenance or repair. Ineligible repower

costs include tires, axles, paint, brakes, and mufflers.

- (C) In order to be eligible for Carl Moyer Program funding, labor expenses must be included in the project invoice, including details on the number of hours charged and the hourly wage.
- (D) Taxes, installation costs for eligible hardware, and transport costs for eligible hardware are eligible for Carl Moyer Program funding with the following exceptions. Installation labor cost incurred by a grantee's own employees is not eligible for funding.
- (E) A potential grantee **may not** order or make a down payment on a new engine, piece of equipment, or vehicle prior to contract execution. Dealers ordering engines, equipment, or vehicles prior to District approval of grant applications **assume all financial risk**, and are in no way ensured Carl Moyer Program funds. A grantee may not receive engines, equipment, or vehicles, nor may work begin on a repower or retrofit project until the project contract is fully executed.
- (F) Payments shall be made directly to the grantee.
- (G) For all on-road projects, if a compliance check was not previously completed, the District shall verify with its ARB District liaison that there are no outstanding violations prior to payment.
- (H) For projects where the participant must comply with an ARB regulation early to receive funding, invoices may not be paid until the project participant has provided documentation that early compliance has been achieved. A project participant may demonstrate early compliance via a detailed letter signed by the vehicle or equipment owner or legal representative or, if the regulation requires ARB to certify compliance, through ARB certification.
- (I) Invoices received after a project post-inspection has been completed must be evaluated for consistency with the project post-inspection form.
- (J) The District shall maintain copies of all invoices and documentation of payment in the project files.
- (K) As project milestones are achieved and documented through the post-inspections described in Section XV, District implementation staff shall request Administrative Services to make payments to grantees using a payment request memorandum. The request for reimbursement with documentation as noted above will be submitted to Administrative Services for payment. Administrative Services will issue payment in accordance with the award authorized by the

MDAQMD Governing Board by minute action. A copy of the itemized invoice shall be attached to the memorandum as necessary to document costs. A sample copy of the payment request spreadsheet is included in Appendix A.

In the event that an incomplete reimbursement package is processed and approved, the funds will not be released to the grantee until the deficiency has been corrected and reimbursement package is complete.

XVIII. PROJECT MONITORING/NONPERFORMANCE

(A) ANNUAL REPORTING

Grantees are required (as a condition of the grant agreement) to submit annual reports for the life of the project. The annual reports are designed to give the District an understanding of how the equipment funded is being used and performing, and where this activity is occurring. Grantee will also demonstrate that the project equipment is not being underutilized in favor of other, higher-polluting equipment. In the alternative, grantee may demonstrate that if the equipment is underutilized that the underutilization was due to unforeseen conditions beyond Grantee's control.

The District will mail reporting forms to each grantee each year upon the annual anniversary date of the completed project; responses from the grantee will be due within 30 days. District staff will send out one follow-up reminder 14 days after the original submittal date has passed. in December. In July, District staff will review the reports received and may mail a second form to grantees that do not complete the first form. Grantees that do not comply with the reporting requirements are subject to District auditing as specified in the state Carl Moyer Program Guidelines. A copy of an annual reporting form is included in Appendix A.

(B) AUDITS

District staff shall annually conduct audits of all Year 12 and later projects ~~that fail to for which submit~~ the annual reporting form ~~was not submitted. (including the last reporting form required at the end of the term of the grant agreement) upon discovery of the reporting deficiency or within six months of the reporting deadline whichever is later.~~

District staff shall conduct audits of projects funded with Carl Moyer Program Funds. annually conduct audits of at least 5 percent of Year 12 and later projects that have been funded or thirty percent (30%) of active projects whichever is less. Annually, audits must include at least five percent or 20 randomly selected active projects (whichever is less): the district may include in this total the audits of projects with reporting

deficiency.

District staff shall also conduct audits on at least 5 percent of Year 12 and later projects at the end of their contract term and all Year 12 and later projects that were found to be more than thirty percent (30%) below the contracted activity level during any previous audit and/or may grant a waiver under current Moyer Guidelines

Audits shall include verification that the funded engines are still operational in the same equipment and meet the mileage, fuel usage, or hours of operation indicated on the executed contract. This shall be completed by checking the serial number of the engine; witnessing the engine operate, and checking the odometer, hour meter/usage device, fuel receipts, or Electronic Monitoring Unit (EMU).

(C) NONPERFORMING PROJECTS

All grant agreements contain a provision that if it is found that the grantee is in breach of the terms of the agreement including the operational time provisions as specified in the agreement and scope of work (see sample in Exhibit A) the Carl Moyer Program grant funds must be returned on a pro rata basis. If annual reports indicate that project activity is more than thirty percent (30%) below the level of use committed to in the grant agreement, the District may do any of the following: grant a waiver that includes but is not limited to extending the reporting term; recalculate the project's cost-effectiveness; attempt to recover funds or consult with ARB to determine what, if any, action must be taken to ensure the emissions benefits are realized and captured per most recent Carl Moyer Project Guidelines. In addition, the District shall audit all of the other engines owned by the same participant and included in the same Carl Moyer Program funded project.

The District's action regarding non-performing projects shall conform to the following guidelines:

1. Extend reporting term as a waiver option. The District may grant extended reporting term for reporting purposes to capture the required emission reductions. The grantee must continue the contract reporting term and must provide documentation that the engine, vehicle, or equipment is not being underutilized in favor of operating other, higher-polluting equipment and the underutilization was due to unforeseen conditions beyond the grantee's control.

To be considered for a waiver, the grantee must provide a written request to the District along with documentation that substantiates the need for the waiver and verifies that higher-polluting equipment is not consequently receiving more use. Acceptable documentation include documentation from

appropriate governmental agencies regarding surface water deliveries and fallow land, relevant logs regarding the amount of groundwater pumped in lieu of surface water deliveries, agricultural pump engine registration or permit information, records that show that idled vehicles or equipment are still owned by the grantee, relevant information from ARB's Diesel Off-Road On-line Reporting System (DOORS), or other pertinent records. Project equipment and operations records available for auditing purposes.

Grantee shall be notified in writing as to the District's decision on granting a waiver.

After the extended contract term all hours each unit operated during the extension shall be considered in aggregate against the total hours required under the contract. Project completion will be determined by the District and if any portions of the agreement remain to be satisfied.

2. Recalculate a project's cost-effectiveness. The District shall recalculate a project's cost-effectiveness based on the reported decrease in usage. If the project is still below the cost-effectiveness cap effective on the date of contract, the District shall continue to monitor the project over the next year to determine if additional actions are necessary. A waiver is not required in this event.
3. Recover funds. Return funds in proportion to the loss in emission reductions.

The level of effort the District takes to recover funds may be guided by circumstances such as 1) The existence of fraud or intentional misuse of funds, 2) The amount of Carl Moyer Program funding involved, and 3) The ability of the applicant to repay the funds.

XIX. FISCAL MANAGEMENT

- (A) Allowable Costs. Carl Moyer Program administrative funds shall be used only for Carl Moyer Program administration and outreach including: District staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs such as general administrative services, office space, and telephone services.
- (B) Required Documentation. The District shall maintain the following documentation of Carl Moyer Program funds used for administration and outreach:
 1. ~~1~~ Personnel documentation will be documented with timesheets.

- ~~2. 2~~—Printing, mailing, and travel expenses will be documented with receipts and/or invoices.
- ~~3. 3~~—The District travel cost criteria will be consistent with the District’s written travel policies for other District programs and shall be documented by expense reports.
- ~~4. 4~~—Indirect cost calculation methodology to determine indirect costs of program administration is described below:

The primary basis for determining the indirect cost rate is direct salaries and benefits associated to the program.

$$\text{Indirect Cost Rate} = \frac{\text{Total Program Salaries and Benefits}}{\text{Total District Salaries and Benefits}}$$

The calculated indirect cost rate is applied to the allowable indirect costs (as determined by Administrative Services). The direct salaries and benefits reflect an after-the-fact distribution of actual work hours reported by District staff using project codes applicable to the Carl Moyer Program. This allocation methodology proportionately allocates costs in a manner that most accurately reflects the benefits of the services and supplies provided. Exceptions to this are those services and supplies that the calculated indirect rate calculation may not apply. In this case, other methods deemed reasonable will be used to determine the appropriate indirect cost allocation. The basis used will be clearly identified including justification as to why it is applied to the indirect cost.

Administrative Services shall maintain documentation for all costs referenced in the indirect cost calculation formula including explanation for any deviations to the indirect cost calculation.

- (C) Availability of Records. The above documentation, records, and referenced materials shall be made available for review during ARB or other State agency monitoring visits and audits. These records shall be retained for a minimum of two years after submittal of the final report for that funding cycle to ARB or any longer period as ARB directs in the most recent Carl Moyer Guidelines.
- (D) Project Tracking Document. District staff shall maintain expenditure spreadsheets that document the current state of obligations and expenditures for each program year. Spreadsheet expenditures shall be updated each time a payment request is sent to Administrative Services. Spreadsheet obligations shall be updated each time the MDAQMD Governing Board approves a new project. A sample copy of

an expenditure spreadsheet is attached in Appendix A, listed as, “Attachment #11.

XX. INTEREST EARNED ON CMP FUNDS

Any interest accrued on Carl Moyer Program funds provided by the State that are deposited in interest bearing accounts must be reported to ARB. The interest income must be expended on projects that meet the current Carl Moyer Program Guidelines in accordance with the timelines in the Guidelines. Projects funded by interest earned shall be entered into the CARL database.

The District maintains a segregated trust account that tracks revenues, expenditures, and interest. Interest calculation for all fiscal programs, including the Carl Moyer Program, is performed by the San Bernardino County Treasury Department based on average daily balance. The District receives monthly interest apportionment from the San Bernardino County Treasury Department. Interest is easily and separately identifiable. The District segregates its Carl Moyer Program funds into separate accounts for Carl Moyer Program administration and Carl Moyer Program projects. The District uses all interest earned in the project account to fund program administration or eligible Carl Moyer Program projects.

Administrative Services District staff tracks and reports on earned interest using the Funding Cycle Method.

XXI. DISTRICT RECORDKEEPING

Project files will be retained subject to District retention policy, Standard Practice 4-5 (included in Appendix A).

XXII. REPORTING TO ARB

District staff will enter all Year 12 and later project data into the CARL database.

The following page(s) contain the backup material for Agenda Item: [Receive and file revised "Carl Moyer Program Voluntary Accelerated Vehicle Retirement Program Work Plan" incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from the California Air Resources Board \(CARB\) and certain administrative update](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #7

DATE: October 23, 2017

RECOMMENDATION: Receive and file revised “Carl Moyer Program Voluntary Accelerated Vehicle Retirement Program Work Plan” incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from the California Air Resources Board (CARB) and certain administrative updates.

SUMMARY: This item acknowledges the revised “Carl Moyer Program Voluntary Accelerated Vehicle Retirement (VAVR) Program Work Plan” incorporating the 2017 Revisions to the Carl Moyer Program Guidelines from CARB and certain administrative updates.

CONFLICT OF INTEREST: None

BACKGROUND: The Carl Moyer Program includes a number of opportunities to grant incentive funds in the effort to reduce emissions. An opportunity implemented by the District since March 2009 is the Voluntary Accelerated Vehicle Retirement Program (VAVR). This program is administered by the District under a Work Plan that conforms to the Carl Moyer Program Guidelines. Periodically CARB releases updates to the Guidelines and the District last revised this Work Plan on August 24, 2015.

On April 25, 2016, the Governing Board delegated authority to the Executive Director to revise work plans to reflect administrative changes in the CARB guidelines. The program history and key provisions that were revised in the 2017 guidelines are noted in Exhibit 1. A redline version is attached noting the changes. The District’s grant program administration is currently under review and from time to time additional revisions may be applied as the program continues to develop.

REASON FOR RECOMMENDATION: Receive and file.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated to revise the Work Plan.

PRESENTER: Jean Bracy, Deputy Director - Administration

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #7

PAGE 2

Exhibit 1

Program History

VAVR projects scrap older, more-polluting vehicles earlier than their expected lifetime that are still operational and have useful remaining life. The Carl Moyer Program includes a number of opportunities to grant incentive funds in the effort to reduce emissions. An opportunity implemented by the District since March 2009 is the Voluntary Accelerated Vehicle Retirement Program (VAVR).

The Work Plan allows the source of funds to be designated from the Carl Moyer Program or the District's Mobile Source Emissions Reduction Program (AB 2766). When the District administers the program in compliance with Carl Moyer Program Guidelines, regardless of the source of funds, the program expenditures qualify as match funding for the Carl Moyer Program.

This program differs from two other similar vehicle retirement programs administered by the Bureau of Automotive Repair (BAR). The Enhanced Fleet Modernization Program (EFMP) accepts vehicles that have either passed or failed their most recent Smog Check, but is limited to income eligible applicants only. The Consumer Assistance Program (CAP) accepts vehicles that have failed their most recent smog check. These programs are described on the MDAQMD Website <http://www.mdaqmd.ca.gov/grants-/incentive-programs/old-car-buy-back-program>

Program Administration

This program is administered by the District under contract to Environmental Engineering Services, Inc. For a small fee per vehicle scrapped, the contractor works with consumers and manages the vehicle intake, documentation, recordkeeping, and vehicle destruction.

In May 2017 and utilizing the 2017 Carl Moyer Guidelines, the Executive Director authorized accepting vehicles through model year 1997 (previously the model year was 1995). This successful program has permanently removed from the District's jurisdiction 1,105 older high polluting vehicles to date.

Additional promotion and outreach will be conducted to reach residents in the District's jurisdiction to notify them of the opportunity and the new parameters.

2017 Carl Moyer Program Revisions

Districts have discretion regarding the incentives offered under this program within parameters described in the Carl Moyer Program Guidelines. Key changes in this Work Plan include:

1. Cost effectiveness threshold has increased to \$30,000
2. Maximum grant amount is \$1,500 per unit, subject to cost effectiveness calculations
3. Voluntary repair of vehicles has been removed as an option. This option offered vehicle owners a grant for smog repair on their vehicle. Experience demonstrated that this option did not offer enough incentive and was not utilized by consumers.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #7

PAGE 3

4. As mentioned above, the Guidelines allow the District to change the base model year accepted into the program to 1997. This model year generally changes year to year targeting vehicles operating that are at least 20 years old.
5. Various administrative revisions have been applied to the formatting, to update the language, and to align with District practices.

The District's grant program administration is currently under review and from time to time additional revisions may be applied as the program continues to develop.



Mojave Desert
Air Quality Management District

Carl Moyer Program
Voluntary Accelerated Vehicle Retirement Program
Work Plan

Approved February 22, 2010
~~Revised January 26, 2015~~
~~Revised August 24, 2015~~
Revised October 2, 2017

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Carl Moyer Program Voluntary Vehicle Accelerated Retirement Program
 Work Plan
 TABLE OF CONTENTS

I. PURPOSE 1

II. HISTORY **Error! Bookmark not defined.**2

III. ENVIRONMENTAL JUSTICE 2

IV. EMISSION REDUCTIONS & COST EFFECTIVENESS 2

V. PROGRAM PROCEDURES 3

A. DISTRICT RESPONSIBILITIES 3

B. CONTRACTOR RESPONSIBILITIES 3

C. PROGRAM ELEMENTS 5

VI. OUTREACH 9

VII. FISCAL ANALYSIS 9

VIII. PROGRAM TIMELINE **910**

IX. PROGRAM CONTACTS 11

Appendix A – CONTRACT 1

Appendix B – PROGRAM FORMS 1

Appendix C – CONTRACTOR’S STATEMENT OF COMPLIANCE 1

Appendix D – VEHICLE MODEL YEAR ELIGIBILITY **15**

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TC-2

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Carl Moyer Program Voluntary Vehicle Accelerated Retirement Program Work Plan

I. PURPOSE

Light-duty vehicles include passenger cars and light-duty trucks such as pick-up trucks, sport utility vehicles (SUVs), and vans. ~~In 2005, the estimated number of light-duty vehicles in California was over 21 million vehicles. This number is expected to increase to over 23 million vehicles by 2010.~~ Light-duty vehicles are major contributors to California's ozone and particulate matter air pollution. Although emissions from light-duty vehicles are decreasing with the ~~W~~work of stricter emission control standards, light-duty vehicles contribute about half of the ozone producing emissions from all on-road vehicles. ~~Older, light-duty vehicles (pre-1990 model years) accounted for 56 percent of reactive organic gases (ROG) and 41 percent of oxides of nitrogen (NO_x) emissions from all light-duty vehicles in 2005 despite accounting for only 19 percent of the vehicle population.~~ Generally, these older vehicles emit more pollutants because of less restrictive emission standards and increased wear and tear on drive train and emission control components. Additionally, the subset of older vehicles that are not well maintained has a higher probability of being high emitters. As a result, older vehicles tend to be major contributors to ozone and particulate matter air pollution in California. The purpose of the Mojave Desert Air Quality Management District's (MDAQMD) Voluntary Accelerated Vehicle Retirement (VAVR) Program, is to reduce ozone-forming emissions by accelerating normal fleet turnover so that newer, cleaner vehicles can be put into use sooner than would occur naturally.

The California Air Resources Board (CARB) has adopted a regulation (13 Cal. Code Regs. §§2601 et seq) which contains the terms and requirements for light duty vehicle retirement projects. From time to time, after public notice and hearing, this regulation may be amended by CARB. It is the intent of the MDAQMD to implement this regulation and incorporate the terms of ~~13 Cal. Code Regs §§2601~~the Carl Moyer Program Guidelines 2017 Revisions and any amendments thereto which are duly adopted by CARB. In the case of any inconsistency~~ye~~ between the regulation(s) and this Work Plan the provisions of the regulation(s) will control. In addition, since VAVR is an eligible project category for Carl Moyer Program funds, it is the MDAQMD's intent to coordinate the requirements of both programs such that the VAVR program as outlined in this Work Plan will assist the MDAQMD in meeting the matching funds requirement associated with the Carl Moyer Program.

II. HISTORY

VAVR programs are strictly voluntary programs overseen by ~~the State-CARB~~ and administered by local air districts. Real emission reductions can be achieved as vehicles are still fully operational and have a useful life remaining. Therefore, to qualify for a VAVR program, a vehicle must meet registration, functionality, and equipment eligibility criteria. In addition to local air district VAVR programs, the Bureau of Automotive Repair's (BAR) Smog Check Program includes a voluntary vehicle retirement element. As part of BAR's Consumer Assistance Program, owners of qualifying vehicles that fail the biennial inspection are given the option of voluntarily retiring their vehicle rather than repairing it. BAR offers \$1,000 in exchange for the vehicle. District VAVR programs work outside of BAR's Smog Check Program to ensure that district programs generate emission reductions

that are surplus to the those obtained through the Smog Check. BAR's program covers vehicles that have *failed* their biennial Smog Check while the district programs cover vehicles that have *passed* their biennial Smog Check or are "off cycle" for Smog Check (i.e., not due for their biennial inspection).

To accommodate car collectors and others with potential interest in vehicles offered for retirement, VAVR programs provide the public with an opportunity to purchase vehicles in whole or in part before the vehicle is entered into the VAVR program. Vehicles accepted into the program for emission reductions must be retired by crushing the vehicle to such a degree that the vehicle and its parts are rendered unusable.

The MDAQMD's VAVR program ~~commenced May 1, 2009 and is administered under contract with was developed, and was implemented by~~ Environmental Engineering Studies (EES). ~~Commencing May 1, 2009, -~~ ~~†~~The MDAQMD VAVR program ~~pays~~ paid \$1,000 to the vehicle owner and \$225 to EES per vehicle retired.

III. ENVIRONMENTAL JUSTICE

The MDAQMD acknowledges that the desert portion of ~~Los Angeles County San Bernardino and Riverside counties~~ encompasses portions of the population that are more impacted by exposure to air pollutants from light-duty motor vehicles than others. ~~AB 1390 requires that in areas with district populations greater than one million, 50% of Carl Moyer Program funds are required to be spent in areas designated for environmental justice (EJ).~~ The population within the MDAQMD is less than one million, and therefore, ~~MDAQMD the District~~ is not required ~~at this time~~ to incorporate an environmental justice component into ~~their the District's~~ Carl Moyer ~~p~~Program. The MDAQMD will structure the VAVR program so that all residents within its jurisdiction have a fair and equal opportunity to participate in this voluntary program. Outreach efforts will be focused on a county-wide scale, and will be multi-media.

IV. EMISSION REDUCTIONS & COST EFFECTIVENESS

The MDAQMD will utilize the calculation methodology, tables and formula as described in Chapter ~~8+3~~ of the 201~~7~~4 Carl Moyer Program Guidelines to determine model year eligibility, cost effectiveness and emissions reductions.

Model year eligibility is determined by the payment to the vehicle owner combined with the cost paid to the contractor in relationship to the emissions reductions obtained from the model year of the vehicle and the Cost-Effectiveness Limit as set by CARB. Currently, the MDAQMD Governing Board has authorized \$1,000 to the vehicle owner and \$225 to the Contractor. Model Year eligibility for the program can be found in Appendix D. As of 201~~7~~5 vehicles of model year 199~~7~~4 and earlier will meet the cost effectiveness criteria. If the variables in the cost effectiveness calculation change such that the model year eligibility changes then the new model year eligibility and its effective date will be indicated in Appendix D.

Note that the amount paid to the contractor may be paid with AB 2766 funds to help to satisfy the MDAQMD's matching funds requirement, and as such will be included in the cost effectiveness

calculations. Only the Carl Moyer program incentive funds and matching funds are included in the cost effectiveness analysis.

V. PROGRAM WORK PROCEDURES

A. DISTRICT RESPONSIBILITIES

~~1. **Payments** – The contractor will invoice the MDAQMD at the end of each month. The contractor will provide backup documentation including completed program forms, receipts/invoices for program advertising costs, and a summary of vehicles retired.~~

~~21. **Recordkeeping** - For each vehicle retired, the MDAQMD shall retain the following information as submitted by the contractor, and include same in the annual report to CARB with the exception of (j-), for and three two (2) years beyond the project life:~~

- ~~a. a. — Vehicle Identification Number (VIN)~~
- ~~b. b. — Vehicle license plate number~~
- ~~c. e. — Vehicle model year~~
- ~~d. d. — Vehicle odometer reading~~
- ~~e. e. — Vehicle make and model~~
- ~~f. f. — Name, address, and phone number of legal owner(s) selling vehicle to the contractor~~
- ~~g. g. — Name and business address of inspector conducting the vehicle’s eligibility inspection, if the VAVR contractor contracts with an ARB-approved inspection entity to perform the vehicle functional and equipment eligibility inspection~~
- ~~h. h. — Date of purchase of vehicle by contractor~~
- ~~i. i. — Date of vehicle retirement~~
- ~~j. j. — Emission reduction claimed, as entered into the CARL database~~
- ~~k. Total district cost to retire each vehicle.~~

~~32. **Audits** - District staff may perform audits of the contractor/enterprise operator and/or the -inspection and dismantling facilities at any point during the operation of the program.~~

B. CONTRACTOR RESPONSIBILITIES

The Contractor will be responsible for coordinating the VAVR program which includes performing the following tasks:

~~1. **Payments** – The contractor will invoice the MDAQMD at the end of each month. The contractor will provide backup documentation including completed program forms, receipts/invoices for program advertising costs, and a summary of vehicles retired.~~

~~2. **Recordkeeping** – Provide to the MDAQMD, upon request, copies of all paperwork for each vehicle as proof of eligibility and purchase, and permanent dismantling. The Contractor will retain these records for the life of the project plus an additional three years.~~

- ~~a. a.~~—Reproduction of California Certificate of Title and registration, as signed-off by the seller at time of final sale to the VAVR enterprise.
- ~~b. b.~~—Reproduction of the Vehicle Functional and Equipment Eligibility Inspection Form.
- ~~c. e.~~—Reproduction of the applicable Notice to Dismantler (DMV Registration 42 form).
- ~~d. d.~~—Reproduction of written documentation from the DMV verifying that a vehicle meets the vehicle registration requirements of the ARB’s VAVR regulations (i.e. DMV history print out).
- ~~e. e.~~—If the retired vehicle was within ~~60~~90 days of its next required Smog Check inspection, a reproduction of documentation that the vehicle passed its Smog Check inspection.

2. **Program operation** – As necessary, the contractor will offer technical training to all program subcontractors covering the scope of work, including proper procedures and contract requirements. The contractor will also ascertain that all subcontractors comply with all program requirements, including but not limited to performing the required eligibility verifications and vehicle dismantling. The contractor will be responsible for payment to the vehicle dismantlers, buy-back facilities and the scrapped vehicle owners.

3. **Vehicle disposal** – The contractor will subcontract with state-licensed auto dismantlers who will permanently dismantle the vehicle in compliance with all program terms and conditions and all federal, state and local rules and regulations. Non-emission-related and non-drive train parts from the vehicle may be sold at the sole discretion of the contractor. The dismantler will permanently destroy the vehicle within ninety (90) days of purchase by the contractor.

4. **Audit** – The contractor will perform independent unannounced audits of the buy-back facilities to ensure only eligible vehicles are qualified for the program. A minimum of fifteen percent of the vehicles deemed eligible by the buy-back facilities will be audited.

5. **Reporting Requirements** – The contractor shall submit monthly summary reports to MDAQMD. The reports shall include the following information for each vehicle qualified and purchased by the program:

- ~~a. a.~~—Vehicle Identification Number (VIN)
- ~~b. b.~~—License plate number
- ~~c. e.~~—Odometer reading
- ~~d. d.~~—Vehicle make, model and model year
- ~~e. e.~~—Contact information for legal vehicle seller(s):
 - ~~i. 1.~~—Name
 - ~~ii. 2.~~—Address
 - ~~iii. 3.~~—Phone Number
- ~~f. f.~~—Contact information for inspector assessing the vehicle’s eligibility:
 - ~~i. 1.~~—Name
 - ~~ii. 2.~~—Business Address

- ~~iii. 3.~~ Phone Number
- ~~g. g.~~ Date of purchase of vehicle
- ~~h. h.~~ Date vehicle is permanently scrapped by the dismantler
- ~~i. i.~~ For those vehicles disqualified from participating in the program, the Vehicle Identification number, license plate number, make, model year and model and the reason for the disqualification.
- ~~j. j.~~ Results of any QA/QC audits performed by the Contractor
- ~~k. k.~~ Discussion of any problems with implementing the program.

C. PROGRAM ELEMENTS

1. General

Participation in the VAVR program is strictly voluntary. Potential participants are advised of the voluntary nature of the program in multiple notices. They are able to opt out of the program at any stage up to when they sell their vehicle to the program. The basic program elements are:

- ~~a. a.~~ The vehicle must be at least twenty (20) model years and older, and a ~~gasoline or diesel powered~~ passenger car or a light duty pickup truck that includes, but is not limited to, a pick-up truck, sports utility vehicle (SUV), or van up to 10,000 pounds gross vehicular weight rating.
- ~~b. b.~~ The vehicle must be currently registered with the California Department of Motor Vehicles (DMV) as an operable vehicle and shall have been so registered for at least twenty-four (24) consecutive months prior to the final date of sale to the VAVR program, to an address or addresses within the Mojave Desert Air Quality Management District jurisdiction. Smog checks must be performed as required by the DMV in order for the vehicle to be considered registered.

A vehicle may also be eligible if the owner of the vehicle placed the vehicle in planned non-operational status per Vehicle Code Section 4604, et seq., for ~~a total of (2) or fewer months~~ 60 days during the ~~continuous previous~~ twenty-four (24) months registration period and occurring at least ~~three (3) months~~ 90 days prior to the date of sale to the VAVR program. The lapse period can occur at the beginning of the 24 month period.

- ~~c.~~ A vehicle may also be eligible if the registration has lapsed for less than one-hundred-and-eighty-one (181) days during the previous twenty-four (24) months and all appropriate registration fees and late penalties have been paid to the DMV, provided that the vehicle is registered for at least ninety (90) days immediately prior to its date of sale to the VAVR program. MDAQMD can accept vehicles with up to 7 days of late registration, without having to wait 90 days, as long as there are no late smog or late fees assessed by DMV.

~~d. e.~~—The vehicle must be driven to the vehicle dismantler site under its own power.

~~e. d.~~—The vehicle cannot be operating under a smog check repair cost waiver or economic hardship extension.

~~f. e.~~—A vehicle must pass the most recent biennial Smog Checks required by California DMV in order to be considered eligible for participation in the VAVR program.

If a vehicle is within sixty-one to ninety (61-90) days of its next required smog check inspection, the vehicle is not required to have a smog check inspection. But, if the smog check inspection is performed in this sixty-one to ninety (61-90) day time frame, the vehicle must pass the inspection.

If a vehicle is within sixty (60) days of its next required smog check inspection, the vehicle must take and pass the smog check inspection without receiving a repair cost waiver or economic hardship extension. Owners of vehicles requiring smog check inspections will be required to submit documentation issued by a licensed smog check station demonstrating compliance with this requirement. The documentation must be submitted to the vehicle dismantler performing the functional and equipment eligibility inspection

~~g. f.~~—Determination of an individual vehicle's registration history shall be based on registration data for that vehicle, obtained from DMV records. If DMV registration data provide inconclusive results for an individual vehicle, then copies of the applicable vehicle registration certificate may be used. MDAQMD can accept the unofficial registration history obtained from the DMV website only if it shows the vehicle owner's full address. MDAQMD can accept copies of unaltered registration slips to show continuous registration in the district for the past 24 months.

2. **Vehicle Eligibility Requirements:**

The contractor/subcontractor will only purchase the vehicle for the VAVR program if it meets the following requirements. These requirements are taken from the VAVR Program Guidelines.

~~a. a.~~—The vehicle must have been driven to the dismantler site under its own power.

~~b. b.~~—The vehicle dismantler will inspect the vehicle using the Vehicle Functional and equipment Eligibility Inspection Form as seen in appendix B to ensure it meets the following requirements and must reject the vehicle if the vehicle fails any one of these requirements:

~~1. 1.~~—All doors must be present and in place.

- ~~2.~~ ~~2.~~—The hood shall be present and in place.
- ~~3.~~ ~~3.~~—The dashboard shall be in place.
- ~~4.~~ ~~4.~~—Windshield shall be present and in place.
- ~~5.~~ ~~5.~~—The driver's seat must be present and in place.
- ~~6.~~ ~~6.~~—Interior pedals shall be operational.
- ~~7.~~ ~~7.~~—One bumper and all side and /or quarter panels shall be present and in place.
- ~~8.~~ ~~8.~~—Vehicle drivability must not be affected by any body, steering or suspension damage.
- ~~9.~~ ~~9.~~—Exhaust system shall be present and in place.
- ~~10.~~ ~~10.~~—One headlight, one taillight, and one brake light shall be present and in place.
- ~~11.~~ ~~11.~~—One side window glass shall be present and in place.
- ~~12.~~ ~~12.~~ ~~The emission control system must not show obvious signs of tampering, such as missing catalytic converter. Vehicles are ineligible until any tampering of the emission control system has been completely corrected~~

~~a.~~ ~~e.~~—The vehicle dismantler will complete the following functional inspection, and shall reject the vehicle if the vehicle fails to complete the following test:

Insert key, vehicle engine must start using keyed ignition system. In addition to the keyed ignition switch, ignition or fuel kill switch may be activated if required to start engine. The vehicle must start readily through ordinary means without the use of starting fluids or external booster batteries. The vehicle shall be driven forward for a minimum of 25 feet under its own power. The vehicle shall be driven in reverse for a minimum of 25 feet under its own power.

Upon satisfactory completion of the inspection, the vehicle dismantler will allow the vehicle to continue participating in the VAVR program. Potential participants for the Mojave Desert Air Quality Management District Old Car Buy Back and Scrap Program may contact Environmental Engineering Studies, Inc. at 1-800-717-7624 and fax number at 1-760-~~634-0922798-4300~~.

The participation and qualification process may also be initiated by faxing the following information to 1-760-~~634-0922798-4300~~.

- ~~1.~~ ~~1.~~—Photocopy of complete title (pink slip).
- ~~2.~~—Photocopy of the most current three (3) years of registrations. If not available, the owner ~~must go and may~~ obtain a printout (not a form) from the DMV office called “Registration History Printout.”. The form is only given to the owner by a local DMV office (not AAA DMV). See also C 1.b for exceptions.

- ~~3. 3.~~ Photocopy of the most current DMV Renewal Notice, if available.
- ~~4. 4.~~ Contact information for vehicle owner(s).

Once a complete inquiry package is received, the following will occur:

- ~~1. 1.~~ If the vehicle meets the vehicle status and qualification requirements of the VAVR program, EES will contact the vehicle owner to schedule an appointment. Vehicle owner must be present at the appointment and the vehicle must be driven to ~~our~~ EES location for the final Vehicle Functional and Equipment Eligibility Inspection and qualification. If vehicle owner can't be present at the appointment to deliver the vehicle, a notarized power of attorney or other legal documents must be faxed to EES and presented prior to the appointment.
- ~~2. 2.~~ If the vehicle does not meet the vehicle status and qualification requirements of the VAVR program, the vehicle owner will be notified of the reason(s).

3. **Offering to the Public**

Vehicles that are offered for sale into the VAVR program will be made available to the public for purchase during a mandatory waiting period. There will be a minimum waiting period of ten (10) days starting at the time a vehicle is first offered for sale to the public. If any person contacts the contractor (EES) within this waiting period and indicates an interest in purchasing the vehicle, the contractor (EES) shall hold the vehicle for a minimum of an additional seven (7) days. During this extended 7-day waiting period, the contractor shall arrange for the interested party to examine the vehicle and, if appropriate, arrange for the sale of the vehicle or any of its parts. Contractor (EES) responsibilities are as follows:

~~a.~~ The contractor (EES) shall submit to the MDAQMD, on a weekly basis, a description of the vehicles offered for sale to the VAVR program. The MDAQMD shall, in turn, make this information available to the public by posting an updated list to the MDAQMD's website.

- ~~a. 1.~~ The description of the vehicle shall include, at a minimum, the vehicle make, model, model year, the first eight digits of the Vehicle Identification Number (VIN).
- ~~b. 2.~~ Entire vehicles and/or parts may be sold prior to entry into the VAVR program; however, no compensation with program funds shall be granted for any vehicle that was resold to the public or which had one or more of its parts (emission or non-emission related) sold to the public during the waiting period. ~~Non-emission related parts are included to ensure that the~~

~~participating vehicle does not provide parts that enable another similar model year and emission level vehicle to operate, that would not otherwise be operating due to difficulties or inability to obtain non-emission related parts (e.g. suspension related parts).~~

4. **Monitoring and Auditing**

The MDAQMD and/or California Air Resources Board (ARB) may conduct announced and unannounced audits and on-site desk inspections (inspection at the facility of records pertaining to the VAVR program to confirm that the facility is compliant with all ARB and MDAQMD requirements and to verify the accuracy of information submitted to the MDAQMD by the contractor (EES)) and audits of the contractor's (EES) operations to ensure operations are being conducted in accordance with all applicable rules and regulations. These audits may also include off-site monitoring of and auditing new vehicles funded. The MDAQMD shall notify any noncompliant contractor (EES) of the nature of the violation and shall initiate any enforcement or remedial action deemed appropriate by the MDAQMD. These audits may be done from the date of execution of contract to three years after the vehicle crushing.

VI. OUTREACH

Outreach efforts will be the responsibility of the contractor with support from the MDAQMD. Outreach efforts may include, but are not limited to, public notices, newspaper advertisements, and advertisements on the MDAQMD website.

VII. FISCAL ANALYSIS

The VAVR program will be administered pursuant to VAVR regulations and the Carl Moyer Program Guidelines; therefore, funds expended after the date this Work plan is approved by the MDAQMD Governing Board shall come from the Carl Moyer Program incentive funds pool or AB 2766 funds and will be counted towards the Moyer match annual requirement. Sources of funds allocated to this program may include Carl Moyer Program funds and/or AB 2766 funds. The MDAQMD plans to budget funding for the annual of operation of the VAVR program. These funds will be obligated to the contractor in the form of a grant agreement with the MDAQMD. Based on historical program activity, it is assumed that there will be approximately, at least 35 vehicles annually that will participate in the program.

VIII. PROGRAM TIMELINE

March 1, 2009	ARB issues official approval of MDAQMD VAVR Implementation Plan
March 23, 2009	VAVR Program Implementation Plan approved by MDAQMD Governing Board.
April 1, 2009	Contract development/execution.

May 1, 2009	Program begins purchasing vehicles for retirement based on requirements outlined in MDAQMD VAVR Work Plan.
January 26, 2015	MDAQMD Governing Board approved revisions to the VAVR Work Plan.
August 24, 2015	MDAQMD Governing Board approves revisions to VAVR Work Plan.
<u>October 2, 2017</u>	<u>VAVR Work Plan revised for 2017 Moyer Program Guidelines.</u>
<i>On-going</i>	Contractor provides MDAQMD with weekly lists of vehicles accepted for retirement, and will invoice the MDAQMD at the end of each month.
Annual Audit Goal	At least annually, MDAQMD will audit at least one of the dismantling sties participating in the VAVR program.

This program will terminate upon action of the MDAQMD Governing Board or upon cessation of the Carl Moyer program if such program is terminated without a replacement program or funding being provided.

IX. PROGRAM CONTACTS

Mojave Desert Air Quality Management District

Jean Bracy

Deputy Director, Administration

Mojave Desert Operations

14306 Park Avenue

Victorville, CA 92392

Phone: (760) 245-1661 ext. 6214

Fax: (760) 245-2022

Email:

Grants Program Coordinator

14306 Park Avenue

Victorville, CA 92392

Phone: (760) 245-1661 ext. 1885

Fax: (760) 245-2022

Contractor

Environmental Engineering Studies

Attn: Antoine J. Assioun, Manager, Air Quality Services

7981 Paseo Membrillo

Carlsbad, CA 92009

760.634.1722 office

email:antoinea@sbcglobal.net

The following page(s) contain the backup material for Agenda Item: [Allocate funds from the Mobile Source Emissions Reduction Program \(AB 2766\) Grant Fund not to exceed \\$150,000 for continued implementation of the MDAQMD Voluntary Accelerated Vehicle Retirement \(VAVR\) Program for program expenditures July 1, 2017 through](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #8

DATE: October 23, 2017

RECOMMENDATION: Allocate funds from the Mobile Source Emissions Reduction Program (AB 2766) Grant Fund not to exceed \$150,000 for continued implementation of the MDAQMD Voluntary Accelerated Vehicle Retirement (VAVR) Program for program expenditures July 1, 2017 through December 31, 2018.

SUMMARY: This item authorizes the use and continued funding for the VAVR program for program expenditures July 1, 2017 through December 31, 2018.

CONFLICT OF INTEREST: None

BACKGROUND: The Carl Moyer Program includes a number of opportunities to grant incentive funds in the effort to reduce emissions. An opportunity implemented by the District since March 2009 is the Voluntary Accelerated Vehicle Retirement Program (VAVR). This program is administered by the District under a Work Plan that conforms to the Carl Moyer Program Guidelines.

Each year staff has requested authorization to use Carl Moyer Program funds to continue this program along with funds from AB 2766 for the outreach portion of this grant. This amount was sufficient to retire about 100 cars during the year.

This action **changes** the funding source for the cost to retire vehicles and the associated outreach **from** Moyer Grant Program **to** the District's Mobile Source Emission Reduction Program (AB 2766) Grant Fund. Increasing the allocation to \$150,000 will cover the total cost of the program from July 1, 2017 to date and calendar year 2018. Additional information about the AB 2766 Grant Fund and funds available is described in Exhibit 1.

REASON FOR RECOMMENDATION: The Governing Board is the authority to allocate funds from the Mobile Source Emission Reduction Program.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #8

PAGE 2

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

FINANCIAL DATA: This action will allocate \$150,000 from the Mobile Source Emission Reduction Program (AB 2766) Grant Fund to the VAVR program for program expenditures July 1, 2017 through December 31, 2018.

PRESENTER: Jean Bracy, Deputy Director – Administration

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #8

PAGE 3

Exhibit 1

VAVR Program

VAVR projects scrap older, more-polluting vehicles earlier than their expected lifetime that are still operational and have useful remaining life. The Carl Moyer Program includes a number of opportunities to grant incentive funds in the effort to reduce emissions. An opportunity implemented by the District since March 2009 is the Voluntary Accelerated Vehicle Retirement Program (VAVR).

Mobile Source Emission Reduction Program (AB 2766)

The District's grant programs are broadly administered under the Mobile Source Emission Reduction Program Work Plan. The Work Plan was first adopted around 1999 and has evolved considerably as funding streams become available and program objectives are revised. The first funding source was established by the state legislature in 1994 and continues to be referenced by its enabling legislation, "AB 2766."

Assembly Bill 2766 (Sher) authorized air pollution control districts and air quality management districts to impose a \$1 to \$4 motor vehicle registration fee to provide funds for air districts to meet responsibilities mandated under the California Clean Air Act (CCAA). As enacted in the California Health & Safety Code (H & S Code), AB 2766 states that the fees shall be used to support district operated planning, monitoring, enforcement and technical studies necessary to implement the CCAA. An additional allowable use is to support programs that reduce air pollution from motor vehicles.

Based on a funding distribution established in 1995, 25% is set aside in an established fund for a competitive grant program. A Call for Projects is generally issued bi-annually soliciting proposals for eligible activities based on the accumulation of funds over the period of two years. Projects were awarded earlier this year and unless the program is revised the next Call for Projects will occur in the spring of 2019.

Changing Funding Sources

In April 2017 the Governing Board awarded Carl Moyer Program funds for a very large, very important project, effectively closing the District's Carl Moyer Program for about two years. Redirecting the funding source for VAVR from the Carl Moyer Program will allow any residual grant funds to be available to grant to smaller eligible projects. VAVR is an eligible use of AB 2766 funds. When the VAVR program is administered in accordance with Carl Moyer Guidelines, the expenditures qualify as required match funding for Carl Moyer projects.

Availability of Funds

The ongoing accumulation of funds, together with interest, and closed or canceled projects the available fund balance is about \$900,000. There are sufficient funds to direct to this project. The District's grant program administration is currently under review and staff is preparing program recommendations to review with the Board.

The following page(s) contain the backup material for Agenda Item: [Allocate funds from the Mobile Source Emissions Reduction Program \(AB 2766\) Grant Fund not to exceed \\$40,000 to purchase and install equipment and associated programing to upgrade the video conferencing sound system. Presenter: Jean Bracy.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #9

DATE: October 23, 2017

RECOMMENDATION: Allocate funds from the Mobile Source Emissions Reduction Program (AB 2766) Grant Fund not to exceed \$40,000 to purchase and install equipment and associated programing to upgrade the video teleconferencing sound system.

SUMMARY: This item will allocate funds from Mobile Source Emissions Reduction Program (AB 2766) Grant Fund not to exceed \$40,000 to purchase and install equipment and associated programing to upgrade the video teleconferencing sound system

CONFLICT OF INTEREST: None

BACKGROUND: The District provides video teleconferencing for the benefit of District member agencies outside the local vicinity of the District offices. An upgrade in 2015 changed cameras, video monitors and programming. The purpose was to better coordinate with remote sites and enhance the teleconferencing experience. The project did not address the audio or its related components, some of which were part of the original system from many years ago. Funding availability and project eligibility is described in Exhibit 1.

A scope of work has been developed targeting an audio upgrade and vendor support for technical issues. Components to be replaced include microphones, amplifiers, audio processing equipment, ceiling speakers, and infrastructure. Services include programming integration into the current system along with technical support. The project is estimated to be completed within eight weeks of order pending vendor availability.

REASON FOR RECOMMENDATION: The Governing Board is the authority to allocate funds from the Mobile Source Emission Reduction Program.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #9

PAGE 2

FINANCIAL DATA: This action will allocate \$40,000 from the Mobile Source Emission Reduction Program (AB 2766) Grant Fund to purchase and install equipment and associated programming to upgrade the video conferencing sound system.

PRESENTER: Jean Bracy, Deputy Director – Administration

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #9

PAGE 3

Exhibit 1

Mobile Source Emission Reduction Program (AB 2766)

The District's grant programs are broadly administered under the Mobile Source Emission Reduction Program Work Plan. The Work Plan was first adopted around 1999 and has evolved considerably as funding streams become available and program objectives are revised. The first funding source was established by the state legislature in 1994 and continues to be referenced by its enabling legislation, "AB 2766."

Assembly Bill 2766 (Sher) authorized air pollution control districts and air quality management districts to impose a \$1 to \$4 motor vehicle registration fee to provide funds for air districts to meet responsibilities mandated under the California Clean Air Act (CCAA). As enacted in the California Health & Safety Code (H & S Code), AB 2766 states that the fees shall be used to support district operated planning, monitoring, enforcement and technical studies necessary to implement the CCAA. An additional allowable use is to support programs that reduce air pollution from motor vehicles.

Based on a funding distribution established in 1995, 25% is set aside in an established fund for a competitive grant program. A Call for Projects is generally issued bi-annually soliciting proposals for eligible activities based on the accumulation of funds over the period of two years. Projects were awarded earlier this year and unless the program is revised the next Call for Projects will occur in the spring of 2019.

Project Eligibility

Reducing mobile emissions is the primary purpose for the use of these funds. Providing video teleconferencing prevents as many as four long distance trips for members whose jurisdiction is 40 miles or more distant from Victorville. Member agencies participating during regular Governing Board meetings include Blythe, Riverside County, and two from San Bernardino County.

Availability of Funds

The ongoing accumulation of funds, together with interest, and closed or canceled projects the available fund balance is about \$900,000. There are sufficient funds to direct to this project. The District's grant program administration is currently under review and staff is preparing program recommendations to review with the Board.

The following page(s) contain the backup material for Agenda Item: [Authorize a Fifth Amendment to the contract with Environmental Engineering Studies, Inc. \(EES\) continuing the administration of the Districts Voluntary Accelerated Vehicle Retirement \(VAVR\) Program, and authorize the Executive Director to execute the exte](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #10

DATE: October 23, 2017

RECOMMENDATION: Authorize a Fifth Amendment to the contract with Environmental Engineering Studies, Inc. (EES) continuing the administration of the District's Voluntary Accelerated Vehicle Retirement (VAVR) Program, and authorize the Executive Director to execute the extension and revise the administrative terms of the contract as needed, approved as to legal form, through December 2018.

SUMMARY: This item will extend the current contract with Environmental Engineering Studies, Inc., continuing the administration of the District's VAVR Program, and authorize the Executive Director to execute the extension, through December 2018.

CONFLICT OF INTEREST: The parties to the agreement will be the District and Environmental Engineering Studies, Inc. (EES). Potential Conflict: District Board Members and Officers; Environmental Engineering Studies, Inc.

BACKGROUND: The Carl Moyer Program includes a number of opportunities to grant incentive funds in the effort to reduce emissions. An opportunity implemented by the District since March 2009 is the Voluntary Accelerated Vehicle Retirement Program (VAVR). This program is administered by the District under a Work Plan that conforms to the Carl Moyer Program Guidelines.

The current contract with EES to administer the VAVR Program expires December 31, 2017. This contract is an effective method for this administering successful program. This action recommends delegating to the Executive Director the authority to execute the extension and to revise the administrative terms of the contract as needed, subject to approval as to legal form.

REASON FOR RECOMMENDATION: The Board has the authority to enter into agreements.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about October 10, 2017.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #10

PAGE 2

FINANCIAL DATA: Appropriation to conduct the VAVR program is authorized by separate action of the Board.

PRESENTER: Jean Bracy, Deputy Director - Administration

1 **FIFTH AMENDMENT TO GRANT AGREEMENT BETWEEN**
2 **ENVIRONMENTAL ENGINEERING STUDIES, INC. AND**
3 **MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

4 **WHEREAS**, the Mojave Desert Air Quality Management District, 14306 Park Avenue,
5 Victorville, CA 92392 (District or MDAQMD) and Environmental Engineering Studies, Inc. located at
6 7981 Paseo Membrillo, Carlsbad, CA 92009, previously entered into an agreement regarding services
7 implementing the MDAQMD’s Voluntary Accelerated Vehicle Retirement Program (VAVR Program);
8 and

9 **WHEREAS**, MDAQMD wishes to continue the VAVR Program; and

10 **WHEREAS**, the program was previously funded using Carl Moyer Program funds; and

11 **WHEREAS**, the District will fund this program using funds from the MDAQMD Mobile Source
12 Emissions Reduction Program (AB 2766) beginning July 1, 2017; and

13 **WHEREAS**, on October 23, 2017, the MDAQMD Governing Board appropriated One Hundred
14 Fifty Thousand Dollars (\$150,000) from the MDAQMD Mobile Source Emissions Reduction Program
15 (AB 2766) to continue the VAVR Program; and

16 **NOW THEREFORE**, in consideration of mutual covenants and conditions the parties agree to
17 amend the agreement as follows:

18 1. Paragraph 4. Term: This amendment shall commence on January 1, 2018 and terminate
19 on completion of funding but no later than December 31, 2018.

20 2. Paragraph 7. Additional Terms for Service: (a) All Services shall be completed in a
21 workmanship like manner and in compliance with the most recent CARB Voluntary Accelerated
22 Vehicle Retirement (VAVR) program, and Carl Moyer Program Guidelines (2017), the MDAQMD
23 VAVR Work Plan, as amended, and all applicable local, state, and federal laws.

24 //

25 This amendment was entered into in Victorville, CA.

26 //

27 //

28 //

1 MOJAVE DESERT AIR QUALITY
2 MANAGEMENT DISTRICT

ENVIRONMENTAL ENGINEERING
STUDIES, INC

3
4 _____
5 BRAD POIRIEZ
6 Executive Director

ANTOINE ASSIOUN
Manager, Air Quality Services

7 Dated: _____

Dated: _____

8 Approved as to legal form:

9
10 _____
11 KAREN K. NOWAK
12 District Counsel

13 Dated: _____

14 END OF CONTRACT AMENDMENT.
15
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The following page(s) contain the backup material for Agenda Item: [Receive and file the Legislative Report for October 5, 2017](#). Presenter: [Brad Poiriez](#).

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM # #11

DATE: October 23, 2017

RECOMMENDATION: Receive and file.

SUMMARY: The Legislative Report for October 5, 2017.

CONFLICT OF INTEREST: None

BACKGROUND: Legislative actions proposed at the federal and state level have the potential to impact the implementation of the District's mission as well as its regulatory operations. An important tool for the District is to monitor the flood of information and its status which allows for comment early in the process and preparation for any changes that may be required. The District contracts this service and receives periodic reports with summaries to help sort the pertinent legislative proposals.

Strategic Partners Group (SPG) is the consultant to the District providing this service to monitor certain legislative and regulatory activities at the state and local level. Staff will direct questions to SPG regarding any of the material presented or follow up on any matter of interest to the Governing Board. Following the table of proposed legislation are several Articles of Interest of relevant information.

REASON FOR RECOMMENDATION: This item is provided for information subject to direction of the Governing Board.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel, as to legal form and by Brad Poiriez, Executive Director, on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Brad Poiriez, Executive Director



Government Affairs and Communication Consulting

FRANK T. SHEETS, III
LAURIE HANSEN SHEETS

MEMORANDUM

TO: Brad Poiriez

FROM: Frank Sheets
Laurie Hansen

DATE: October 5, 2017

Following, please find Strategic Partners Group latest legislative report.

As mentioned in our last report, September 15th was the last day of this legislative session and the last day for the Legislature to pass bills to the Governor for his consideration. Bills we have been tracking that did not pass before this deadline can usually be considered dead except those designated as two-year bills. We have therefore removed from this report bills that failed to meet the September 15th deadline, except for a few exceptions in that we find their failure of interest. Governor Brown now has until October 15th to either sign, veto, or let bills become law without his signature.

Bills included in this report that were not passed by the end of session include:

- AB 419, a proposal to take \$500,000 from the GHG fund to sponsor a University of California study to evaluate and assess life cycle emissions profiles of Greenhouse Gases.
- SB 30, by Senator Lara which would have attempted to put restrictions on the construction of a Federally funded wall along the State's border with Mexico
- SB 100 authored by Senate President DeLeon which would have ambitiously pushed up compliance dates and percentage requirements of the State's renewable portfolio standards.
- SB 701, by Senator Hueso- "Salton Sea Obligations Act of 2018" failed passage while SB 615 by Hueso DID pass. SB 615 is a general Salton Sea restoration bill.

In total, of the close to 60 bills Strategic Partners Group began tracking for the District at the beginning of this legislative sessions, 30 have been enrolled, thirteen of which have been signed into law by the Governor.

To put this session activities into perspective, Legislators introduced 2,550 bills in the first year of the 2017/18 session. The Assembly passed 970 of its bills, or 56 percent of the measures the house introduced, to the Senate. 472 of those Assembly bills were sent to Governor Brown for his consideration.

The state Senate passed 514 of its own bills, or 63 percent of the bills Senators introduced this year. At least 243 Senate bills cleared the Assembly and are pending approval by Brown. The Assembly failed to

pass just nine of its own bills brought up for a vote this year, while Senators killed just three bills.

In our next report, we will detail to the best of our ability to identify which of the bills ultimately signed by the Governor will have direct impact on any new or modified responsibility for the Mojave Air District.

MDAQMD 2017 bills

Thursday, October 05, 2017

AB 20

(Kalra D) *Public employee retirement systems: divestment: Dakota Access Pipeline.*

Current Text: Enrolled: 9/7/2017 [Text](#)

Current Analysis: 08/31/2017 [Assembly Floor Analysis \(text 7/12/2017\)](#)

Introduced: 12/5/2016

Last Amend: 7/12/2017

Status: 9/12/2017-Enrolled and presented to the Governor at 2:30 p.m.

Location: 9/12/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chartered
1st House				2nd House							

Summary: Would require the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System to make a specified report, on or before April 1, 2018, to the Legislature and the Governor regarding investments in the Dakota Access Pipeline, as defined. The bill would declare the intent of the Legislature that the boards, on or before April 1, 2018, review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the boards' investment policies related to environmental, social, and governance issues.

Notes 1: The original intent of tracking this bill on behalf of the MDAQMD was based on our assumption there might be an interest in District employees to be aware the proposed law could impact how monies in the State retirement funds could be invested. This proposed bill has been significantly amended in that now the bill only directed the state retirement fund managers to take into account impact of proposed investments on Tribal issues. Based on these amendments, and the fact that the bill has now been enrolled, we question whether the bill is of interest to the District under its current language.

AB 36

(Nazarian D) *Eligible fuel cell electrical generating facilities: energy metering.*

Current Text: Enrolled: 9/19/2017 [Text](#)

Current Analysis: 09/15/2017 [Senate Floor Analyses \(text 4/4/2017\)](#)

Introduced: 12/5/2016

Last Amend: 4/4/2017

Status: 9/26/2017-Enrolled and presented to the Governor at 3 p.m.

Location: 9/26/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chartered
1st House				2nd House							

Summary: Current law requires that an electrical corporation file with the Public Utilities Commission a standard tariff providing for this energy metering for eligible fuel cell customer-generators and make the tariff available to eligible fuel cell customer-generators upon request, on a first-come-first-served basis, until the total cumulative rated generating capacity of the eligible fuel cell electrical generating facilities receiving service pursuant to the tariff reaches a specified level. This bill would change "eligible fuel cell electrical generating facility" to "eligible electrical generating facility" and would additionally make eligible a facility that electromechanically converts fuel to electricity for purposes of the above-described energy metering program.

[AB 79](#)

[\(Levine D\)](#) *Electrical generation: hourly greenhouse gas emissions: electricity from unspecified sources.*

Current Text: Vetoed: 10/3/2017 [Text](#)

Current Analysis: 09/12/2017 [Assembly Floor Analysis \(text 9/1/2017\)](#)

Introduced: 1/4/2017

Last Amend: 9/1/2017

Status: 10/3/2017-Vetoed by Governor.

Location: 10/3/2017-A. VETOED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require, by January 1, 2019, the State Air Resources Board, in consultation with California balancing authorities, as defined, to update its inputs or methodology for the calculation of emissions of greenhouse gases associated with electricity from unspecified sources, a term defined in existing law but revised for this purpose. The bill would require the inputs or methodology to distinguish between those emissions associated with electricity from unspecified sources that is purchased within California balancing authority areas, as defined, and those emissions associated with electricity from unspecified sources imported into California from different subregions of the Western Electricity Coordinating Council.

Governor's Message: To the Members of the California State Assembly: I am returning Assembly Bill 79 without my signature. This bill would require the State Air Resources Board to update the inputs or methodology for calculating greenhouse gas emissions of unspecified energy sources. This bill is unnecessary and interferes with the implementation of existing law passed just last year that requires the California Energy Commission, in consultation with the State Air Resources Board, to adopt a methodology for the calculation of greenhouse gas emissions intensity for all electricity purchases. Sincerely, Edmund G. Brown Jr.

Notes 1: Levine's bill has been significantly amended eliminating future restrictions on the procurement of electricity from coal fired generation and now simply calls for the recording of emissions from electrical generation from sources outside of California that is delivered to the California grid.

[AB 188](#)

[\(Salas D\)](#) *Vehicle retirement and replacement.*

Current Text: Enrolled: 9/15/2017 [Text](#)

Current Analysis: 09/13/2017 [Assembly Floor Analysis \(text 9/8/2017\)](#)

Introduced: 1/19/2017

Last Amend: 9/8/2017

Status: 9/20/2017-Enrolled and presented to the Governor at 4:30 p.m.

Location: 9/20/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law creates the enhanced fleet modernization program to provide compensation for the retirement and replacement of passenger vehicles and light-duty and medium-duty trucks that are high polluters. This bill would require the State Air Resources Board, no later than July 1, 2019, to update the guidelines for the enhanced fleet modernization program to make applicable to light-duty pickup trucks the same standard for miles per gallon that is applicable to minivans, as specified.

[AB 246](#)

[\(Santiago D\)](#) *Environmental quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011.*

Current Text: Enrolled: 9/19/2017 [Text](#)

Current Analysis: 09/16/2017 [Assembly Natural Resources \(text 9/7/2017\)](#)

Introduced: 1/30/2017

Last Amend: 9/7/2017

Status: 9/27/2017-Enrolled and presented to the Governor at 4 p.m.

Location: 9/27/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The Jobs and Economic Improvement Through Environmental Leadership Act of 2011 authorizes the Governor, until January 1, 2018, to certify projects that meet certain requirements, including the requirement that the project is certified as LEED silver or better by the United States Green Building Council, achieves a 10% greater standard for transportation efficiency than for comparable projects, and creates high-

wage, highly skilled jobs that pay prevailing wages and living wages, for streamlining benefits provided by that act. The act provides that if a lead agency fails to approve a project certified by the Governor before January 1, 2019, the certification expires and is no longer valid. The act requires a lead agency to prepare the record of proceedings for the certified project concurrent with the preparation of the environmental documents. The act is repealed by its own terms on January 1, 2019. This bill would increase the certification of the project to LEED gold or better and increase the transportation efficiency to a 15% greater standard.

Notes 1: This bill has been significantly amended as it originally dealt with fence line air quality monitoring at hazardous waste management facilities and now deals with LEEDs programs. We feel the bill no longer has significance for the District.

AB 248

(Reyes D) Hazardous waste: facilities: permits.

Current Text: Enrolled: 9/19/2017 [Text](#)

Current Analysis: 07/19/2017 [Senate Floor Analyses \(text 5/26/2017\)](#)

Introduced: 1/30/2017

Last Amend: 5/26/2017

Status: 9/26/2017-Enrolled and presented to the Governor at 3 p.m.

Location: 9/26/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require, for a hazardous waste facilities permit that will expire on or before July 1, 2020, the owner or operator of a facility intending to extend the term of that permit to submit a Part A and Part B application for a permit renewal at least 6 months before the fixed term of the permit expires. The bill would require, for a hazardous waste facilities permit that will expire after July 1, 2020, the owner or operator to submit a Part A and Part B application for a permit renewal at least 2 years before the fixed term of the permit expires.

AB 262

(Bonta D) Public contracts: bid specifications: Buy Clean California Act.

Current Text: Enrolled: 9/15/2017 [Text](#)

Current Analysis: 09/12/2017 [Assembly Floor Analysis \(text 7/19/2017\)](#)

Introduced: 1/31/2017

Last Amend: 7/19/2017

Status: 9/20/2017-Enrolled and presented to the Governor at 4:30 p.m.

Location: 9/20/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The State Contract Act governs the bidding and award of public works contracts by specific state departments and requires an awarding department, before entering into any contract for a project, to prepare full, complete, and accurate plans and specifications and estimates of cost. This bill, the Buy Clean California Act, would, by January 1, 2019, require the Department of General Services to establish, and publish in the State Contracting Manual, a maximum acceptable global warming potential for each category of eligible materials, in accordance with requirements set out in the bill.

Notes 1: The bill requires contractors winning state bids to submit affidavits detailing the amount of GHG's generated from the making of raw materials used in such projects assuring GHG emissions from products used do not exceed certain GHG limits as established by the State..

AB 277

(Mathis R) Water and Wastewater Loan and Grant Program.

Current Text: Chaptered: 10/3/2017 [Text](#)

Current Analysis: 09/03/2017 [Senate Floor Analyses \(text 3/27/2017\)](#)

Introduced: 2/1/2017

Last Amend: 3/27/2017

Status: 10/3/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 438, Statutes of 2017.

Location: 10/3/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would, to the extent funding is made available, authorize the State Water Resources Control Board to establish the Water and Wastewater Loan and Grant Program to provide funding to eligible applicants for

specified purposes relating to drinking water and wastewater treatment. This bill would authorize a county or qualified nonprofit organization to apply to the board for a grant to award loans or grants, or both, to an eligible applicant. The bill would authorize the board to use a funding source that is authorized for and consistent with the purposes of the program.

AB 321 (Mathis R) Groundwater sustainability agencies.

Current Text: Chaptered: 7/18/2017 [Text](#)

Current Analysis: 06/14/2017 [Senate Floor Analyses \(text 4/27/2017\)](#)

Introduced: 2/7/2017

Last Amend: 4/27/2017

Status: 7/18/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 67, Statutes of 2017.

Location: 7/17/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Sustainable Groundwater Management Act requires a groundwater sustainability agency to consider the interests of all beneficial uses and users of groundwater, as well as those responsible for implementing groundwater sustainability plans, including, among other interests, holders of overlying groundwater rights, including agricultural users and domestic well owners. This bill would specifically include farmers, ranchers, and dairy professionals in the agricultural users whose interests a groundwater sustainability agency is required to consider.

Notes 1: Although not an air issue, the management of groundwater supplies is of vast importance for the State and therefore we feel it appropriate to include this bill in the Districts bill list.

AB 398 (Garcia, Eduardo D) California Global Warming Solutions Act of 2006: market-based compliance mechanisms: fire prevention fees: sales and use tax manufacturing exemption.

Current Text: Chaptered: 7/25/2017 [Text](#)

Current Analysis: 07/17/2017 [Senate Appropriations \(text 7/14/2017\)](#)

Introduced: 2/9/2017

Last Amend: 7/14/2017

Status: 7/25/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 135, Statutes of 2017.

Location: 7/25/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years. The act authorizes the state board to adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases, applicable from January 1, 2012, to December 31, 2020, inclusive, as specified. This bill would require the state board, no later than January 1, 2018, to update the scoping plan, as specified.

Notes 1: We have included in this report what we feel to be an interesting article outlining new political realities developing in California as demonstrated by the passage of this bill.

AB 419 (Salas D) Greenhouse gases: life cycle emissions profiles.

Current Text: Amended: 8/21/2017 [Text](#)

Current Analysis: 05/01/2017 [Assembly Appropriations \(text 4/19/2017\)](#)

Introduced: 2/9/2017

Last Amend: 8/21/2017

Status: 8/21/2017-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

Location: 8/21/2017-S. RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as

the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Current law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund. This bill would appropriate \$500,000 from the fund to the state board for the purpose of funding a study by one or more campuses of the University of California to study and assess life cycle emissions profiles.

Notes 1: AB 419 demonstrates the gut and amend process in that instead of dealing with residential electrical metering now is a funding bill for GHG studies.

AB 617 ([Garcia, Cristina D](#)) *Nonvehicular air pollution: criteria air pollutants and toxic air contaminants.*

Current Text: Chaptered: 7/26/2017 [Text](#)

Current Analysis: 07/17/2017 [Senate Appropriations \(text 7/14/2017\)](#)

Introduced: 2/14/2017

Last Amend: 7/14/2017

Status: 7/26/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 136, Statutes of 2017.

Location: 7/26/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would require the State Air Resources Board to develop a uniform statewide system of annual reporting of emissions of criteria air pollutants and toxic air contaminants for use by certain categories of stationary sources. The bill would require those stationary sources to report their annual emissions of criteria air pollutants and toxic air contaminants, as specified.

Notes 1: A newly added bill to the MDAQMD bill list, AB 617. This bill was part of the bill package dealing with the continuance of the GHG Cap and Trade program. Although the bill calls for new air quality programs, the business community ultimately supported this measure recognizing that in order to get the cap and trade program to move forward basically unchanged, they needed to agree to the bill's air quality measures. The bill as passed is not as controversial as previous proposals, however the author promised to see additional legislation next year dealing with additional air quality measures. We have included in this report recent articles on the passage of this legislation.

AB 733 ([Berman D](#)) *Enhanced infrastructure financing districts: projects: climate change.*

Current Text: Enrolled: 9/8/2017 [Text](#)

Current Analysis: 09/06/2017 [Assembly Floor Analysis \(text 6/26/2017\)](#)

Introduced: 2/15/2017

Last Amend: 6/26/2017

Status: 9/13/2017-Enrolled and presented to the Governor at 4 p.m.

Location: 9/13/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of communitywide significance, and makes related findings and declarations. This bill would additionally authorize the financing of projects that enable communities to adapt to the impacts of climate change, including, but not limited to, specified impacts described in the bill, and would make conforming changes to the Legislature's findings and declarations.

AB 797 ([Irwin D](#)) *Solar thermal systems.*

Current Text: Chaptered: 10/4/2017 [Text](#)

Current Analysis: 09/13/2017 [Assembly Floor Analysis \(text 6/8/2017\)](#)

Introduced: 2/15/2017

Last Amend: 9/8/2017

Status: 10/4/2017-Signed by the Governor

Location: 10/4/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
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1st House	2nd House	Conc.			
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Summary: The Solar Water Heating and Efficiency Act of 2007 requires the governing body of each publicly owned utility providing gas service to retail end-use customers to adopt, implement, and finance a solar water heating system incentive program to encourage the installation of 200,000 solar water heating systems by 2017. This bill would revise the program to, among other things, promote the installation of solar thermal systems throughout the state, reserve 50% of the total program budget for the installation of solar thermal systems in low-income residential housing or in buildings in disadvantaged communities, expand the program to homeowners that lack access to natural gas and rely on propane or wood burning to fulfill their space heating, water heating, and cooking needs who are being considered to receive natural gas and who reside in the San Joaquin Valley communities identified by the commission.

Notes 1: This bill is new to the Districts, and call for a program to assist in the installation of solar power hot water heaters in low income communities. We thought this may be of interest.

AB 1014 (Cooper D) Diesel backup generators: health facility.

Current Text: Chaptered: 7/31/2017 [Text](#)

Current Analysis: 07/12/2017 [Senate Floor Analyses \(text 4/17/2017\)](#)

Introduced: 2/16/2017

Last Amend: 4/17/2017

Status: 7/31/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 145, Statutes of 2017.

Location: 7/31/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Current law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. This bill would require a health facility, as defined, to conduct specified tests and maintenance of its diesel backup generators and standby systems. By adding to the duties of air districts, this bill would impose a state-mandated local program.

Notes 1: The District should note the Chaptering of this legislation in that it will apply additional District responsibilities .

AB 1073 (Garcia, Eduardo D) California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program.

Current Text: Enrolled: 9/13/2017 [Text](#)

Current Analysis: 09/07/2017 [Assembly Floor Analysis \(text 6/22/2017\)](#)

Introduced: 2/16/2017

Last Amend: 6/22/2017

Status: 9/19/2017-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. This bill would require the state board, when funding a specified class of projects, to allocate, until December 31, 2020, no less than 20% of that available funding to support the early commercial deployment of existing zero- and near-zero-emission heavy-duty truck technology.

AB 1132 (Garcia, Cristina D) Nonvehicular air pollution: order for abatement.

Current Text: Chaptered: 8/7/2017 [Text](#)

Current Analysis: 07/19/2017 [Assembly Floor Analysis \(text 7/10/2017\)](#)

Introduced: 2/17/2017

Last Amend: 7/10/2017

Status: 8/7/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 171, Statutes of 2017.

Location: 8/7/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Current law regulates the emission of air pollutants by stationary sources and authorizes the regional air quality management districts and air pollution control districts (air districts) to enforce those requirements. Current law authorizes the governing boards and the hearing boards of air districts to issue an order for abatement, after notice and an abatement hearing, whenever they find a violation of those requirements. This bill would authorize an air pollution control officer, if the officer finds that any person is causing an imminent and substantial endangerment to the public health or welfare, or the environment, by violating those requirements, to issue an interim order for abatement pending an abatement hearing before the hearing board of the air district.

Notes 1: This bill as originally written generated significant industry concerns but as amended is considered acceptable. Although the business community did not overly object to the language of this bill, the District should note its passage and evaluate the specific implications to their operations.

[AB 1274](#) ([O'Donnell D](#)) *Smog check: exemption.*
Current Text: Enrolled: 9/15/2017 [Text](#)
Current Analysis: 09/13/2017 [Assembly Floor Analysis \(text 9/8/2017\)](#)
Introduced: 2/17/2017
Last Amend: 9/8/2017
Status: 9/21/2017-Enrolled and presented to the Governor at 3:30 p.m.
Location: 9/21/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would, beginning January 1, 2019, and except as provided, exempt motor vehicles that are 8 or less model-years old from being inspected biennially upon renewal of registration. The bill would assess an annual smog abatement fee of \$25 on motor vehicles that are 7 or 8 model-years old. The bill would require a certain amount of the fee to be deposited into the Air Pollution Control Fund and to be available for expenditure, upon appropriation by the Legislature, to fund the Carl Moyer Memorial Air Quality Standards Attainment Program.

Notes 1: Although the title of this bill originally referenced the Carl Moyer program and does not now, the bill still proposes to support the program thru the creation of a Smog Abatement fee on older vehicles to assist in funding the program.

[AB 1317](#) ([Gray D](#)) *Carl Moyer Memorial Air Quality Standards Attainment Program.*
Current Text: Enrolled: 9/7/2017 [Text](#)
Current Analysis: 09/04/2017 [Senate Floor Analyses \(text 4/17/2017\)](#)
Introduced: 2/17/2017
Last Amend: 4/17/2017
Status: 9/13/2017-Enrolled and presented to the Governor at 4 p.m.
Location: 9/13/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board, to provide grants to offset the incremental cost of eligible projects that reduce emissions of air pollutants from covered sources. Current law defines the term "covered source" for purposes of the program. This bill would revise the definition of "covered source" to include stationary irrigation or water conveyance engines.

[AB 1647](#) ([Muratsuchi D](#)) *Petroleum refineries: air monitoring systems.*
Current Text: Enrolled: 9/15/2017 [Text](#)
Current Analysis: 09/12/2017 [Assembly Floor Analysis \(text 8/29/2017\)](#)
Introduced: 2/17/2017
Last Amend: 8/29/2017
Status: 9/21/2017-Enrolled and presented to the Governor at 3:30 p.m.
Location: 9/21/2017-A. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law authorizes the State Air Resources Board or the air district to require the owner or the

operator of an air pollution emission source to take any action that the state board or the air district determines to be reasonable for the determination of the amount of air pollution emissions from that source. This bill would require a refinery-related community air monitoring system, as defined, to be installed on or before January 1, 2020, as specified, and would require an air district to design, develop, install, operate, and maintain the refinery-related community air monitoring system or to contract with a third party to provide those services.

Notes 1: We added this bill for informational purposes only in that it should have no affect on the District in that no refineries are present. However, in that the it represents a new program for some districts, we felt it warranted inclusion on your list.

[AB 1712](#) (Committee on Natural Resources) Private burning of lands.

Current Text: Chaptered: 7/21/2017 [Text](#)

Current Analysis: 06/27/2017 [Senate Floor Analyses \(text 3/8/2017\)](#)

Introduced: 3/8/2017

Status: 7/21/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 93, Statutes of 2017.

Location: 7/21/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Current law provides that cooperation by the Department of Forestry and Fire Protection with a person desiring to use prescribed burning as a means of converting brush-covered lands into forage lands, which has as its objective, among other things, the prevention of high intensity wildland fires, is a public purpose. This bill would instead provide that cooperation by the department with a person desiring to use prescribed burning as a means of converting brush-covered lands into forage lands or to help meet wildland management goals, which has as its objective, among other things, restoring ecological integrity and resilience, community wildfire protection, carbon resilience, and enhancement of culturally important resources, is a public purpose.

Notes 1: We felt this important to include in that although prescribed burns impact air quality, the benefits of prescribed burns are recognized.

[ACA 1](#) ([Mayes R](#)) Greenhouse Gas Reduction Reserve Fund.

Current Text: Chaptered: 7/18/2017 [Text](#)

Current Analysis: 07/17/2017 [Assembly Floor Analysis \(text 7/14/2017\)](#)

Introduced: 12/5/2016

Last Amend: 7/14/2017

Status: 7/17/2017-Chaptered by Secretary of State- Chapter 105, Statues of 2017

Location: 7/17/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Would create the Greenhouse Gas Reduction Reserve Fund, in which all moneys collected by the state board as part of a market-based compliance mechanism beginning January 1, 2024, and until the effective date of specified legislation would be deposited. The measure would require all moneys in the fund to be available upon appropriation for specified purposes and would require a bill making those appropriations to be passed by a 2/3 vote of the membership of each house of the Legislature. The measure would require all new moneys collected as part of a market-based compliance mechanism after the effective date of that specified legislation to be deposited in the Greenhouse Gas Reduction Fund.

Notes 1: ACA 1 is the third bill that passed dealing with the extension of the cap and trade program. Republicans wanted conditions established so in the future they could participate in the management of Cap and Trade funds. This was another "give" the Governor agreed to ignored to get the 2/3 majority on AB 398

[AJR 20](#) ([Gonzalez Fletcher D](#)) Climate change.

Current Text: Chaptered: 9/19/2017 [Text](#)

Current Analysis: 08/30/2017 [Senate Floor Analyses \(text 6/8/2017\)](#)

Introduced: 6/8/2017

Status: 9/7/2017-Chaptered by Secretary of State- Chapter 164, Statues of 2017

Location: 9/7/2017-A. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
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1st House	2nd House	Conc.			
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Summary: This measure would declare that California will continue to lead in its efforts to reduce emissions of greenhouse gases and fight global climate change and would encourage other state legislatures and cities in the nation to continue to support and follow the United Nations Framework Convention on Climate Change Paris Agreement. This measure would request that the United Nations create a category for the recognition and participation of subnational jurisdictions whose parent countries are not part of or have withdrawn from the Paris Climate Agreement.

Notes 1: We also felt the District might find this bill of interest.

SB 1

(Beall D) Transportation funding.

Current Text: Chaptered: 4/30/2017 [Text](#)

Current Analysis: 04/06/2017 [Assembly Floor Analysis \(text 4/3/2017\)](#)

Introduced: 12/5/2016

Last Amend: 4/3/2017

Status: 4/28/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 5, Statutes of 2017.

Location: 4/28/2017-S. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria, consistent with a specified asset management plan, to ensure efficient use of certain funds available for the program.

Notes 1: SB 1, although convoluted, represents an increases in fuel taxes and registration fees to assisting in the funding of repairs to existing transportation infrastructure in the state. Being a tax bill, we assume it would require a 2/3 majority for passage. The bill seems to be moving right along through the Senate. Interestingly however we have recently heard speculation on increases in gasoline and diesel costs associated with the ongoing implementation of AB 32. Some estimate costs of gasoline could increase between \$.16 and \$.63/ gallon over the next several years. The bill passed with a 2/3 majority subsequent to considerable negotiations providing funding to specific projects in several legislative districts.

SB 5

(De León D) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018.

Current Text: Enrolled: 9/19/2017 [Text](#)

Current Analysis: 09/15/2017 [Senate Floor Analyses \(text 9/10/2017\)](#)

Introduced: 12/5/2016

Last Amend: 9/10/2017

Status: 9/21/2017-Enrolled and presented to the Governor at 5:30 p.m.

Location: 9/21/2017-S. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf.	Enrolled	Vetoed	Chaptered
1st House				2nd House				Conc.			

Summary: Would enact the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. The bill, upon voter approval, would reallocate \$100,000,000 of the unissued bonds authorized for the purposes of Propositions 1, 40, and 84 to finance the purposes of a drought, water, parks, climate, coastal protection, and outdoor access for all program.

Notes 1: Senator DeLeon's adjusted \$39. billion bond measure continues to move along.

SB 30

(Lara D) California-Mexico border: federally funded infrastructure.

Current Text: Amended: 8/31/2017 [Text](#)

Current Analysis: 07/10/2017 [Assembly Accountability And Administrative Review \(text 5/26/2017\)](#)

Introduced: 12/5/2016

Last Amend: 8/31/2017

Status: 8/31/2017-From committee with author's amendments. Read second time and amended. Re-referred to Com. on A. & A.R.

Location: 8/31/2017-A. A. & A.R.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would make findings and declarations related to a wall on the border between California and Mexico. This bill, except as specified, would prohibit the state, commencing January 1, 2018, until January 1, 2026, from awarding or renewing any contract with any person that, at the time of bid or proposal for a new contract or renewal of an existing contract, is a prime contractor that is providing or has provided on or after January 1, 2018, goods or services to the federal government for the construction of a federally funded wall, fence, or other barrier along California’s southern border.

Notes 1: We include this bill only because we find it of interest the State is considering federally funded projects in the State require an approval by California voters if the funds exceed \$1 billion.

SB 51

(Jackson D) Professional licensees: environmental sciences and climate change: whistleblower and data protection.

Current Text: Enrolled: 9/7/2017 [Text](#)

Current Analysis: 09/05/2017 [Senate Floor Analyses \(text 7/12/2017\)](#)

Introduced: 12/5/2016

Last Amend: 7/12/2017

Status: 9/11/2017-Enrolled and presented to the Governor at 4 p.m.

Location: 9/11/2017-S. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Current law provides for the licensure and regulation of various professions and vocations by certain entities within state government. Current law establishes various grounds upon which these entities may take disciplinary action against a licensee to suspend or revoke a license. This bill would prohibit these licensing entities, except the State Bar of California, from taking disciplinary action, including suspension, loss of credential, registration, or other professional privilege, against a public employee, as defined to include those persons working in the environmental sciences and climate-change-related fields who are conducting scientific or technical research, in connection with actions taken by that person to report improper federal governmental activity or disclose the results of or information about scientific or technical research to the public by means that include, but are not limited to, publishing the information in a scientific or a public forum or sharing it with the media.

SB 80

(Wieckowski D) California Environmental Quality Act: notices.

Current Text: Enrolled: 9/13/2017 [Text](#)

Current Analysis: 09/08/2017 [Senate Floor Analyses \(text 6/21/2017\)](#)

Introduced: 1/11/2017

Last Amend: 6/21/2017

Status: 9/15/2017-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/15/2017-S. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The California Environmental Quality Act requires the lead agency to mail certain notices to persons who have filed a written request for notices. The act provides that if the agency offers to provide the notices by email, upon filing a written request for notices, a person may request that the notices be provided to him or her by email. This bill would require the lead agency to post those notices on the agency’s Internet Web site. The bill would require the agency to offer to provide those notices by email. Because this bill would increase the level of service provided by a local agency, this bill would impose a state-mandated local program.

Notes 1: Usually, it is our understanding, land use agencies typically are lead agencies for projects. In the event however that an Air District becomes a lead agency under CEQA, these new notice provisions would be applicable to the District.

SB 100

(De León D) California Renewables Portfolio Standard Program: emissions of greenhouse gases.

Current Text: Amended: 9/11/2017 [Text](#)

Current Analysis: 09/06/2017 [Assembly Floor Analysis \(text 7/18/2017\)](#)

Introduced: 1/11/2017

Last Amend: 9/11/2017

Status: 9/11/2017-September 11 hearing postponed by committee. From committee with author's amendments.

Read second time and amended. Re-referred to Com. on U. & E.

Location: 9/8/2017-A. U. & E.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: The Legislature has found and declared that its intent in implementing the California Renewables Portfolio Standard Program requires the PUC is to attain, among other targets for sale of eligible renewable resources, the target of 50% of total retail sales of electricity by December 31, 2030. This bill would revise the above-described legislative findings and declarations to state that the goal of the program is to achieve that 50% renewable resources target by December 31, 2026, and to achieve a 60% target by December 31, 2030.

Notes 1: Apparently Senator DeLeon recognized that achieving a 100% renewable portfolio is not practical for California. Even with his ambitious goals, the bill failed passage by the September 15th deadline.

SB 249

(Allen D) Off-highway motor vehicle recreation.

Current Text: Chaptered: 10/3/2017 [Text](#)

Current Analysis: 09/14/2017 [Senate Floor Analyses \(text 9/8/2017\)](#)

Introduced: 2/7/2017

Last Amend: 9/8/2017

Status: 10/3/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 459, Statutes of 2017.

Location: 10/3/2017-S. CHAPTERED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would revise and recast various provisions of the Off-Highway Motor Vehicle Recreation Act of 2003. The bill would expand the duties of the Division of Off-Highway Motor Vehicle Recreation. The bill would require the division to take specified measures to protect natural and cultural resources within state vehicular recreation areas, as specified. indefinitely, except for the provision establishing the Off-Highway Motor Vehicle Recreation Commission, which the bill would repeal on January 1, 2023.

Notes 1: There have been significant additional amendments to this proposed legislation. Individuals interested in this recreational activity should be aware of the bills proposals to determine their potential impact.

SB 563

(Lara D) Residential wood smoke.

Current Text: Enrolled: 9/13/2017 [Text](#)

Current Analysis: 09/08/2017 [Senate Floor Analyses \(text 7/6/2017\)](#)

Introduced: 2/17/2017

Last Amend: 7/6/2017

Status: 9/15/2017-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/15/2017-S. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would establish the Woodsmoke Reduction Program to be administered by the State Air Resources Board, in coordination with air districts, to promote the voluntary replacement of old wood-burning stoves with cleaner and more efficient alternatives in order to achieve short- and long-term climate benefits and localized public health benefits, as specified. The bill would authorize moneys from the Greenhouse Gas Reduction Fund to be allocated for incentives offered as part of the program. By adding to the duties of air districts, this bill would impose a state-mandated local program.

Notes 1: This bill is new to the Districts watch list. The bill proposes a new program to mitigate emissions from wood burning fireplaces through the voluntary replace of wood burning stoves.

SB 615

(Hueso D) Salton Sea restoration.

Current Text: Enrolled: 9/15/2017 [Text](#)

Current Analysis: 09/13/2017 [Senate Floor Analyses \(text 9/8/2017\)](#)

Introduced: 2/17/2017

Last Amend: 9/8/2017

Status: 9/19/2017-Enrolled and presented to the Governor at 4 p.m.

Location: 9/19/2017-S. ENROLLED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would specify that any barrier in the Salton Sea within or below a certain elevation would not be considered a dam and would provide that the construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to the act shall not be subject to review, approval, inspection, or fees associated with certain laws relating to dams and reservoirs. The bill would state various legislative findings and declarations relating to the Salton Sea, would name the state's comprehensive management plan for the Salton Sea the "John J. Benoit Salton Sea Restoration Plan."

Notes 1: Amendments to SB 615 appear to create regulatory streamlining proposals to speed up restoration activities at the Salton Sea.

SB 701

(Hueso D) Salton Sea Obligations Act of 2018.

Current Text: Amended: 7/3/2017 [Text](#)

Current Analysis: 08/21/2017 [Assembly Appropriations \(text 7/3/2017\)](#)

Introduced: 2/17/2017

Last Amend: 7/3/2017

Status: 9/1/2017-September 1 hearing: Held in committee and under submission.

Location: 8/23/2017-A. APPR.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would enact the Salton Sea Obligations Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$500,000,000 pursuant to the State General Obligation Bond Law to finance a program to comply with specified state obligations relating to the Salton Sea. This bill would provide for the submission of these provisions to the voters at the November 6, 2018, statewide general election.

Notes 1: This bond proposal is another new bill for the District's list. We don't believe we have seen this before but felt some members of the District would find it of interest. The Bill proposes a Bond measure of \$500,000,000 to be used for issues associated with the demise of the Salton Sea.

SR 27

(Wieckowski D) Relative to vehicular air pollution.

Current Text: Enrolled: 4/4/2017 [Text](#)

Current Analysis: 03/29/2017 [Senate Floor Analyses \(text 3/9/2017\)](#)

Introduced: 3/9/2017

Status: 4/3/2017-Read. Adopted. (Ayes 27. Noes 4. Page 582.)

Location: 4/3/2017-S. ADOPTED

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would resolve by the Senate of the State of California, That the California Senate opposes any efforts by the current administration and Congress of the United States to deny, roll back, or otherwise undermine the waiver authority duly granted under the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

Total Measures: 34
Total Tracking Forms: 34

Articles of Interest:

Democrats choose union over Tesla in California cap-and-trade deal

BY JIM MILLER jmiller@sacbee.com

SEPTEMBER 12, 2017 9:15 AM

Democratic lawmakers and Gov. Jerry Brown are siding with organized labor in its battle with automaker Tesla, inserting a provision in last-minute legislation to spend \$1.5 billion in cap-and-trade money.

The negotiated package largely spends funds on a variety of anti-pollution programs, such as those to retrofit and replace smog-belching big rigs and buses.

But the legislation, amended late Monday to be ready for votes before lawmakers adjourn for the year on Friday, also would inject the state into an increasingly acrimonious union organizing campaign at automaker Tesla's Fremont plant. Beginning in July 2018, manufacturers that want to be eligible for state zero-emission vehicle rebates – a major driver of Tesla sales – would need to be certified by the state labor secretary “as fair and responsible in the treatment of their workers.”

Clean vehicle rebates have helped put more than 100,000 vehicles on the road. Tesla buyers are eligible for [rebates of up to \\$2,500](#), but that perk could be imperiled by the legislation's worker-treatment language.

The United Auto Workers union has set out to organize thousands of Tesla workers, some of whom allege that the company had illegally intimidated them. The National Labor Relations Board's Oakland regional office filed a complaint against the company [late last month](#). About 350 people wanting to purchase the newest Tesla, the Model 30, waited in line Thursday morning, March 31, 2016, in Rocklin. They came from all around the region. Some arrived the day before.

In a letter Tuesday to Brown, the Association of Global Automakers said the proposal creates “an unpredictable standard that would be impossible to adhere to in an already challenging market.

“We believe this language presents several constitutional, legal and enforceability concerns but, more importantly, is counterproductive to building a sustainable market for zero emission vehicles in California,” wrote Damon Shelby Porter, the association's director of state government affairs.

Steve Smith, a spokesman for the California Labor Federation, disagreed. “We think it's important for the Legislature to send a message that we can create jobs, reduce emissions and protect workers at the same time,” he said.

Another union-friendly provision in the package sets aside \$140 million for zero-emission equipment at California ports but the money cannot be spent on automated cargo-handling equipment. Increasing port automation has been a major concern of port workers unions.

The package reflects a deal between legislative Democrats and the Brown administration. It comes almost two months after lawmakers approved Assembly Bill 398. That measure extended the state's nationally watched cap-and-trade program to reduce heat-trapping

emissions blamed for climate change, removing legal uncertainty that had been blamed for sub-par pollution credit auction results.

With cap-and-trade's future assured, the Brown administration, legislative leaders and dozens of interest groups have spent recent weeks negotiating how to spend hundreds of millions of dollars generated by the program.

Sixty percent of the money is already committed to high-speed rail, housing near transit and other programs, with 40 percent to be allocated each year by the Legislature. Officials estimate that portion totals more than \$1.4 billion, including a beginning balance of \$843 million.

The Brown administration released [its spending priorities two weeks ago](#). Senate and Assembly leaders never formally presented plans for spending the money but leading Democrats made clear that a priority should be to reduce diesel pollution, a major problem around the state's ports.

The newly amended legislation would spend almost \$600 million in California cap-and-trade auction revenue to retrofit and replace big rigs and school buses blamed for contributing to poor air quality linked to asthma and other illnesses. It also includes incentives for clean-vehicle purchases and zero-emission port equipment.

Farms and other agricultural businesses and vehicles would be eligible for at least \$250 million in grants, rebates and other help, with another \$200 million set aside for biomass and various "healthy forest" efforts. Such programs have been popular in the more rural districts of Republican lawmakers, some of whom provided [key votes for the July legislation](#) to extend cap-and-trade.

Among the other line items in this week's legislation are \$25 million to pay for standby firefighters during times of high fire danger and \$40 million to reduce organic waste. Low-income weatherization programs would receive \$18 million.

The package is among several bills scheduled to be considered by the Senate budget panel Tuesday, with the Assembly Budget Committee doing the same Wednesday. Tuesday is the last day bills can be amended and still be eligible for votes before Friday's legislative deadline

California Legislature's final days of work this year have changed, thanks to voters

For years, California's most powerful interest groups relied on what they could pull off once night fell on the state Capitol in the final hours of every legislative year.

A flurry of controversial ideas would be quietly slipped into pending bills. Tax breaks. Fast-track authority on big development deals. New public employee union contracts. In many cases, the efforts would appear hours or even minutes before the last gavel fell.

This week, months after voters imposed a 72-hour public review period, the change was striking: Only 13 bills were amended or re-written on Tuesday, the deadline for any bill to be heard before Friday night's adjournment of the Legislature for 2017.

"I think the voters sent a very clear message, saying they expect greater transparency from the Legislature," said Tom Scott, executive director of the National Federation of Independent Business' state branch.

The business group and a coalition of government watchdog groups were supporters of [Proposition 54](#), the state constitutional amendment that promised to give the public more access to the inner workings of how bills are written and considered in Sacramento. Nearly two-thirds of voters supported it on the Nov. 8 ballot.

The ballot measure requires bills be made public for three days before a final vote — which means none of the legislation that will be approved or rejected this week can be revised. Nor can any new bills be considered through end-runs around legislative rules.

Proposition 54's impact, while most obvious during the time that lawmakers wind down their work, has changed the contours of several high-profile negotiations this year — perhaps none more politically risky as the springtime decision to [raise fuel taxes and vehicle fees to fund a \\$52-billion transportation plan](#).

Lawmakers complained the rules made it hard to cobble together the specific policies needed for the tax increase to win support from a supermajority of members in both the Senate and Assembly. The debate even prompted [the ballot measure's backers to fire off a warning letter to legislative leaders](#), and some warned of a court fight if the rules were not closely followed.

As the legislative session ends, not all lawmakers think California voters made the right decision.

“So you need time when you're actually engaging in amendments, negotiating,” said state Senate President Pro Tem Kevin de León (D-Los Angeles) on Tuesday. “The 72-hour rule actually hurts the people of California, because it stops and curtails negotiations, creativity.”

De León has been deeply involved in a series of late-session negotiations, including his efforts to aggressively [expand the state's renewable energy mandates](#) and create a so-called “[sanctuary state](#)” system in California to limit the role of local law enforcement in aiding federal immigration officers. He called it a “holier than thou, sanctimonious argument” that bills needed three days of public review before lawmakers cast their final vote.

Supporters of the new law have complained that it has been applied inconsistently in the two houses of the Legislature. Last December, the Assembly approved a series of house rules that define the public review period as [only applying to bills whose next stop is the governor's desk](#) — and not to bills that still required the approval of the state Senate.

Assembly Republicans balked at those rules, and warned [Democrats](#) they were risking a legal challenge that could nullify bills too quickly shuffled to the Senate. While the effort to impose a strict interpretation of the new law was rejected, Democrats seemed to concede at least the possible existence of a problem. Last week, they took the unusual step of bringing back a group of springtime bills — unaltered by the Senate, but originally passed by the Assembly without 72 hours of public review.

“I'm glad that Assembly leadership appears to be acknowledging its mistake,” Assemblyman Kevin Kiley (R-Rocklin) said during floor debate last week.

The law may have also sparked the beginning of a more fundamental shift in Sacramento: the value of getting more bills crafted early, so that the proposals don't get caught up in end-of-session attempts at leveraging political support for other more controversial bills.

“A legislator is always better served to work out issues with their bill as early as possible,” said Assemblyman Ken Cooley (D-Rancho Cordova), the chair of the Assembly Rules Committee.

Scott, one of the original backers of the Proposition 54 political campaign, said the ballot measure's other elements — new rules mandating videotaping of all legislative hearings — have shed substantially more sunlight on what happens in the statehouse. But he said the rules governing the details of bills still don't go far enough to allow the public time to consider the impact of new laws.

"Voters expected the 72-hour requirement to serve as a minimum, not a maximum," he said.

California Democrats growing tired of Nancy Pelosi

BY CHRISTOPHER CADELAGO

ccadelago@sacbee.com

SEPTEMBER 13, 2017 8:00 PM

House Minority Leader Nancy Pelosi, who won an eighth term leading the Democratic caucus last fall, should be replaced regardless of whether her party regains control of Congress' lower chamber in next year's elections, according to a new poll.

The statewide survey of California Democrats by UC Berkeley's Institute of Governmental Studies found only 30 percent believe House Democrats should choose Pelosi to stay on as their leader should they win back the House of Representatives in 2018. Some 44 percent prefer somebody else taking over, while the remainder have no opinion.

Democrats have long watched in disappointment as Republicans consistently use Pelosi as "one of their main battering rams" in competitive House races, said Mark DiCamillo, director of the poll.

"What California Democrats see is that Pelosi's image in other parts of the country is not positive," DiCamillo said, "and it becomes a drag in their quest to retake the House."

Should Republicans retain control of the House in the midterms, the poll found that half of Democrats want their party to pick another leader while just 31 percent prefer Pelosi.

"Their main frustration is with what's going on in Washington," DiCamillo added. "They don't like the situation and they want to change it. Anything they can do to bring that about is helpful."

The survey was taken through Sept. 5, before Pelosi and Senate Minority Leader Chuck Schumer struck a deal with President Donald Trump to raise the debt ceiling. Late Wednesday, the Associated Press reported that Pelosi and Schumer had reached an agreement with Trump on border security and efforts to shield immigrants who were brought to the U.S. illegally as children.

While Pelosi's leadership has come under scrutiny before, the veteran San Francisco politician is a prodigious fundraiser and her grip on the caucus has remained strong despite electoral setbacks. In November, she easily overcame a challenge from Rep. Tim Ryan of Ohio, who said the last election demonstrated the party's increasing disconnection with the struggles of working-class Americans.

California Democrats' souring views on Pelosi come amid a leftward shift in the state party as its veteran guard — beginning last year with former U.S. Sen. Barbara Boxer, and continuing next year with the departure of Gov. Jerry Brown — gives way to a new generation of

politicians.

The UC Berkeley poll found that voters between the ages of 18 and 29 and those who identify as “strongly liberal” have considerably more favorable views of first-year U.S. Sen. Kamala Harris than they do of her Democratic colleague, Dianne Feinstein, who is considering running for a fifth term next year.

Concluded DiCamillo: “That is where the future of the Democratic Party is heading.”

Turning up the Pressure on a Gas Tax Repeal

By **Joel Fox**

Editor and Co-Publisher of Fox and Hounds Daily

Friday, September 15th, 2017

Anger over the increase in gas taxes has launched a second initiative to repeal the tax passed in April. Sources close to the drafting of this new measure say it will be well funded. Such a measure could have political implications beyond undoing the tax—one situation now and one if it makes the ballot.

Polls show strong opposition to the gas tax increase. A gas tax repeal measure could rally Republican voters to go to the polls during the 2018 General Election, especially if no Republican makes the runoff for either of the state’s high-profile offices, governor and United States Senator.

The timing of the filing of this initiative is also interesting. News of the pushback against a previous tax increase comes at a time when legislators weigh another tax increase vote on SB 2, a document tax to pay for housing. A reminder that taxes are on the voters’ minds might play into the final legislative votes on SB 2.

The [new tax repeal effort](#) is a short constitutional amendment that states that all gas taxes approved after January 1, 2017 must be approved by the electorate. While the taxes approved under SB 1 take effect in November they would cease to be collected if the new initiative passes in 2018.

An earlier initiative filed by Assembly member Travis Allen is also designed to repeal the gas tax. That measure is awaiting a hearing in court over the wording of the title and summary written by Attorney General Xavier Becerra.

Anti-Trump environmental protection proposal fails to advance in California Legislature

A proposal to help California guard against rollbacks of federal regulations stalled early Saturday morning at the end of the state's legislative session.

SB 49 would have enshrined large swaths of federal environmental protection regulations and other rules into state law. The goal was to prevent changes made by the Trump administration from affecting California.

"It's trying to freeze time," said Sen. Henry Stern (D-Los Angeles), an author of the legislation.

Assemblyman Ian Calderon (D-Whittier), who helped push the legislation in the Assembly, said it struggled to get the necessary votes among members concerned about giving regulators outsized power. He said lawmakers could continue working on the issue next year.

"It's not dead," he said. "It's just paused."

Two related measures, Senate bills 50 and 51, were approved by lawmakers and sent to Gov. Jerry Brown. One would try to prevent the federal government from selling federal land without first offering it to the state, and the other would direct California officials to preserve climate change data at risk of being deleted by the federal government.

Hundreds Of Bills Await Governor's Pen As Calif. Legislature Adjourns

Ben Bradford

Sunday, September 17, 2017 | Sacramento, CA |

The California Legislature has adjourned for the year, after a flurry of votes into the early hours of Saturday morning. Lawmakers sent Governor Jerry Brown hundreds of bills — about everything from a parks bond to pet stores. They also struck major housing, transportation and climate change deals this year, which many Capitol -- watchers thought could not find support.

Democratic leaders point to those deals as three main accomplishments: billions of new dollars for road and bridge repair, an extension of the state's climate change program -- cap-and-trade -- and a package of measures to address the state's housing affordability crisis.

"I think it could by any objective measure be viewed as one of the most accomplished legislative sessions, if not perhaps the most accomplished legislative sessions in the history of California," says Democratic Senate leader Kevin de León.

"Well, I've been through a lot of 'most productive sessions ever.' I could say this might be one of them," says Senator Jim Nielsen, the Republican vice-chair of the budget committee. "But I would say not in a 'productive, good for the people of California' way. Breath-taking tax increases this year, that are really going to hurt the middle-class, in fact everybody in California."

All of the big deals could raise costs — the housing package includes a new real estate transaction fee, fuel costs could rise as businesses comply with cap-and-trade, and the transportation bill increases the gas tax and vehicle fees.

"It's been more than two-and-a-half decades since we dealt with the issue of infrastructure, rebuilding for California," says De León. "Because we've had past legislative bodies as well as governors who have kicked that can down the pothole-ridden road."

"With respect to housing it's the same thing," says Democratic Assembly Speaker Anthony Rendon. "More Californians are paying more of their monthly income on their rents or their mortgages. The idea is to provide more housing with the hope that housing prices will go down."

Democratic lawmakers also embraced a new, prominent role as a foil to the Trump administration.

"There was more and more desire on the part of our caucus to create a real contrast between

what was happening in Washington, and what was happening here,” Rendon says. “Trump talks about infrastructure, we did something.”

Rendon and De León announced legislation designed to protect immigrants in the country unlawfully.

“We took a position very early on that Donald Trump was a clear and present danger to California,” De León says. “A threat to our economic prosperity, to our values, and to our people, and that we as a state—the 6th largest economy in the world—would do everything in our power to resist.”

Democrats nominated Congressman Xavier Becerra as state attorney general with the promise that he would push back against the Trump administration. And Friday night they passed a new law extending “sanctuary city” protections across the state.

“It’s so incredible to me to have heads of agencies of state government, and legislators, advocating the violation of federal law, reinventing federal law on their own,” says Nielsen.

Democrats were bolstered throughout the year by new, two-thirds supermajorities they won in the last election — meaning technically they could pass new taxes, fees, or bonds along party -- lines, although that rarely happened.

“Two-thirds was helpful in terms of negotiation. You know, you always want to negotiate from a position of strength, but it also becomes a math problem, too,” Rendon says.

Republicans still have leverage, particularly moderate lawmakers who made deals on these key votes. But the party’s ability to pass legislation is certainly diminished.

“We’ve learned that we’ll only accomplish so much in the Legislature, we need to get the word out to the citizens,” says Nielsen.

Nielsen says that’s worked in a big way, with a new rule requiring that bills be public and not amended for 72 hours before lawmakers vote for them.

“The biggest accomplishment this year was not thanks to the Legislature, it’s thanks to the people of California with Prop 54 and the 72-hour waiting. That’s the biggest accomplishment,” Nielsen says.

Now it’s Governor Jerry Brown’s turn to act. He’ll have a month to sign or veto the hundreds of measures on his desk from the Legislature’s busy end to the year.

Tax-Happy Session Ends; Could Have Been Worse

By **Joel Fox**

Editor and Co-Publisher of Fox and Hounds Daily

Monday, September 18th, 2017

With the gas tax increase, the cap-and-trade extension, which many call a tax increase because it raises revenue for the government to spend, and now the document tax to fund housing issues, this legislative session probably produced the most tax-happy lawmakers since the 1935 legislature created both a state income tax and a vehicle license fee.

Yet to be determined, will this willingness to raise taxes have repercussions at the ballot box?

The test will not be so much whether individual legislators are returned to office. Odds are most incumbents are safe. Rather, the test will come with the recall effort against Sen. Josh Newman, since that election is focused on his gas tax vote; and a gas tax repeal initiative if either of the two proposed measures make the ballot.

An earlier UC Berkeley Institute of Governmental Studies poll showed disdain for the gas tax with 58% opposed. However, in a recent IGS poll, when voters were asked to rank 20 priority issues in the order of importance when they choose whom to support for the next governor, the gas tax landed tied for 12th place on the poll.

That number is likely to change when the gas tax collection begins in November and Californians become more aware of the new law. It should be noted that the general issue of Tax Policies ranked tied for 6th in the same poll with 51% of the respondents classifying Tax Policies as a priority. Incidentally, the high-speed rail project, which is kept alive by funding from cap-and-trade, finished last in the priority list with only 17% tabbing it as a priority.

There is another way of looking at the tax increase fever in the legislature—it could have been worse. Many legislators have a knee jerk reaction to reach into the taxpayers' pockets to solve any problem. Fortunately, not all these tax funded problem solutions are finalized.

As evidence, take a look at the [Job Killer bills](#) listed by the California Chamber of Commerce. Under the subsection on Taxes, the CalChamber lists nine measures, that is a third of all the bills labeled as job killers.

Among the tax increases tagged by the Chamber are targeted taxes on contractors, alcohol, sweetened drinks, and high-earners. There are also bills to make it easier to raise taxes. None of the nine bills made it to the governor's desk this year.

But, a warning: it is a two-year legislative session and some of these tax measures could get a new life next year.

Gov. Brown Signs Plan To Spend \$1.5B In Climate Money

Ben Bradford

Sunday, September 17, 2017 | Sacramento, CA | [Permalink](#)

Billy Wilson / Flickr

UPDATED Sept. 18, 9:13 a.m.

California lawmakers have agreed on how to divvy up \$1.5 billion of funding generated by the state's cap-and-trade program.

Measures passed Friday direct most of that money to cutting pollution from the transportation sector, which comprises about 40 percent of the state's total greenhouse gas emissions.

"California simply cannot meet our long-term climate targets without reducing emissions from transportation," said Democratic Senate leader Kevin de León.

Under the measures, the state will spend \$895 million on clean vehicle programs, especially replacing diesel engines in buses, agricultural equipment, and at ports.

Lawmakers also approved more than \$150 million for cleaner farming—including reducing methane from cows. Another \$225 million goes to fighting wildfires.

But discussion largely focused on one, recently-added provision, which drew criticism from Republicans and some Democrats.

"We shouldn't be holding our environmental projects hostage to a fight with one progressive employer," said Democratic Sen. Steve Glazer.

That employer is Tesla, which the National Labor Relations Board has accused of disrupting unionization efforts by its workers. Under the measures, Tesla and other clean vehicle manufacturers must receive state approval of their treatment of workers, if their vehicles are to remain eligible for state rebates.

Here's a breakdown of the main funding categories:

Diesel engines and the transportation sector: \$895 million

Local air quality programs: \$27 million

Agriculture programs, including methane reduction: \$165 million

Preventing and responding to forest fires: \$225 million

Recycling and greening: \$101 million

Climate change preparation: \$55 million

Another \$32 million helps backfill the revenue lost from removing a fire-fighting tax on rural communities—**part of a deal** with Republican lawmakers to pass an extension of the cap-and-trade program.

The bill allocates the portion of cap-and-trade that lawmakers have discretion over. The program distributes 60 percent of its revenue automatically to clean energy programs and the state's high-speed rail project.

Gov. Jerry Brown is expected to sign the measures.

Feinstein contends that Cadiz project would contaminate water supply

By **JIM STEINBERG** | jsteinberg@scng.com | San Bernardino Sun

PUBLISHED: September 26, 2017 at 6:50 pm | UPDATED: September 26, 2017 at 10:46 pm

As the Cadiz project seems increasingly likely to go forward, Sen. Dianne Feinstein issued a statement contending the underground desert water could ultimately contaminate much of Southern California's water supply.

The project involves the transfer of ancient groundwater in a remote part of San Bernardino County's Mojave Desert to parts of Orange County and other locations, where it could serve as many as 400,000 people.

“For close to two decades, Cadiz has been trying to ram through a water extraction project that would harm the Mojave Desert. And now we hear from the Metropolitan Water District that the water Cadiz wants to extract could contain dangerous chemicals that pose a threat to the safety of Southern California's water supply,” Feinstein, D-Calif., said in a recent statement. Cadiz officials have long denied that the project will harm wildlife. They dispute Feinstein's claim, denying that the project's groundwater would be brought into the Colorado River Aqueduct without treatment to screen out potentially harmful contaminants.

On its website, Cadiz called Feinstein's remarks “irresponsible and not true.”

“The water that Cadiz plans to extract contains numerous contaminants including arsenic and cancer-causing Chromium-6. Left untreated, it could pollute the pristine water of the Colorado River Aqueduct, endangering the health of not only Cadiz's customers but all 19 million Californians who rely on that water,” Feinstein's statement said.

The aqueduct extends 242 miles from Lake Havasu to Lake Matthews.

The project got a boost earlier this month when the Department of Interior's Office of the Solicitor issued an opinion that Cadiz believes allows its use of a railroad right-of-way for the construction of a 43-mile pipeline from Fenner Valley — about 40 miles northeast of Twentynine Palms — to the Colorado River Aqueduct, where it could be delivered to future customers.

In late 2015, the Obama Administration's Bureau of Land Management rejected Cadiz's use of an 1875 railway right-of-way to build this critical pipeline.

In a letter to Feinstein dated Sept. 15, The Metropolitan Water District of Southern California's general manager, Jeffrey Kightlinger, wrote that the project is in a preliminary stage "and much about it is still unknown."

The Cadiz project has not submitted an application to MWD for a conveyance agreement, Courtney Degener, a Cadiz spokeswoman, said Tuesday. Metropolitan will seek to ensure that the project does not interfere with its operations of the Colorado River Aqueduct which serves about 19 million retail customers, Kightlinger wrote.

"We are stunned and disappointed by the allegations made by Senator Feinstein, which reflect a lack of understanding of the project and disregard for state requirements that all drinking water meet federal and state standards issued by the U.S. Environmental Protection Agency and the state's Division of Drinking Water," Cadiz said on its website.

"Water quality at Cadiz is regularly tested using licensed professional laboratory services, is the subject of annual reports to San Bernardino County and was extensively surveyed in connection with the comprehensive Court-approved environmental impact report (EIR) for the Cadiz Water Project," a company statement said.

Delivery of Cadiz groundwater to the Colorado River Aqueduct will be done in full accordance with applicable federal and state standards. Cost-effective and permitted treatment technologies are available to reduce constituents below existing state and federal standards should such treatment be necessary in the future," the statement said.

In July, at the request of Feinstein, Assemblywoman Laura Friedman, D-Glendale, introduced AB 1000, the California Desert Protection Act, a state bill that would have stopped Cadiz by requiring stronger environmental review for groundwater projects in the desert.

The bill has been blocked by the California Senate Appropriations Committee.

In commenting on why the bill, supported by Gov. Jerry Brown, did not leave the committee before the current session ended, its chairman, State Sen. Ricardo Lara, D-Bell Gardens, said the bill would have created a precedent for the Legislature to block other controversial projects.

California lawmaker wants to ban gas car sales after 2040

BY ALEXEI KOSEFF

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SEPTEMBER 29, 2017 12:01 AM

France and the United Kingdom are doing it. So is India. And now one lawmaker would like California to follow their lead in phasing out gasoline- and diesel-fueled vehicles.

When the Legislature returns in January, Assemblyman Phil Ting plans to introduce a bill that would ban the sale of new cars powered by internal-combustion engines after 2040. The San Francisco Democrat said it's essential to get California drivers into an electric fleet if the state is going to meet its greenhouse gas reduction targets, since the transportation sector accounts for more than a third of all emissions.

"The market is moving this way. The entire world is moving this way," Ting said. "At some point you need to set a goal and put a line in the sand."

California already committed five years ago to putting 1.5 million “zero-emission vehicles,” such as electric cars and plug-in hybrids, on the road by 2025. By that time, the state wants these cleaner models to account for 15 percent of all new car sales.

But progress has been modest so far, as consumers wait for prices to drop and battery ranges to improve, or opt for large trucks and SUVs that are not available among electric offerings. Slightly more than 300,000 zero-emission vehicles have now been sold in California, and they accounted for just under 5 percent of new car sales in the state in the first half of the year.

Ting is among the policymakers pushing to [increase incentives for drivers](#) to ditch their gas guzzlers. He is also working on legislation that would overhaul California’s electric car rebate program by making more money available for rebates, then ratcheting down the value of those discounts as the state hits sales targets.

“California is used to being first. But we’re trying to catch up to this,” Ting said. France and the United Kingdom both [announced this summer](#) that they would ban the sale of new gas and diesel cars after 2040. India is [aiming to get there](#) by 2030. And China [said this month](#) that it would stop the production and sale of vehicles powered solely by fossil fuels in the coming years.

Mary Nichols, chair of the California Air Resources Board, caused a stir [earlier this week](#) when she told Bloomberg News that California might consider doing the same.

“I’ve gotten messages from the governor asking, ‘Why haven’t we done something already?’ The governor has certainly indicated an interest in why China can do this and not California,” she said.

Her remarks were met with skepticism from automakers and industry analysts, and outrage from many drivers. But Ting said the state must be aggressive in establishing a vision for reducing greenhouse gas emissions.

“If you had told me five years ago that we might have autonomous vehicles on the road soon, I would have laughed,” he said. “The technology is moving so quickly, I don’t know if by 2040 we’ll be owning our own cars.”

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 102 – Definition of Terms: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #14

DATE: October 23, 2017

RECOMMENDATION: Conduct a public hearing to consider the amendment of Rule 102 – *Definition of Terms*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending Rule 102 and directing staff actions.

SUMMARY: Rule 102 is proposed for amendment to provide consistency and clarity of commonly used definitions contained in the District rulebook.

CONFLICT OF INTEREST: None

BACKGROUND: The Mojave Desert Air Quality Management District (MDAQMD) has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The MDAQMD is proposing to amend Rule 102 – *Definition of Terms* for inclusion in the current rulebook.

Many terms are defined in multiple district rules. Staff has determined that the rulebook will be more clear and consistent by shifting common definitions to Rule 102 and updating many definitions for consistency. This rule is proposed for amendment to incorporate changes proposed to comply with the RACT SIP updates proposed for Rule 461 – *Gasoline Transfer and Dispensing*, Rule 462 – *Organic Liquid Loading*, Rule 463 – *Storage of Organic Liquids*, Rule 1115 – *Metal Parts & Products Coating Operations*, and Rule 1160 – *Internal Combustion Engines*.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the amendment of Rule 102 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #14

PAGE 2

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Alan De Salvio, Deputy Director – Mojave Desert Operations on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations

Rule 102

Definition of Terms

The definitions contained in this Rule shall apply to all rules within this Rulebook except when a term is otherwise provided in a specific rule or regulation.

- (1) Actual Emissions – The actual rate of emissions of a Regulated Air Pollutant which accurately represent the emissions from an Emissions Unit. Such emissions shall be calculated using the verified actual operating hours; production rates; and types of materials processed, stored or combusted as applicable.
- (2) Aggregate Emissions – A facility-wide sum of Actual Emissions, on an emissions category specific basis, from emission units operated at a single facility.
- (3) Agricultural Burning – Open outdoor fires used in agricultural operations in the growing of crops or raising of fowls or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat or disease and pest prevention. Agricultural burning also includes open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified above.
- (4) Agricultural Operations – Any operation occurring on a ranch or farm directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making profit or for a livelihood, including the growing and harvesting of crops or the raising of fowl or animals, or conducting agricultural research or instruction by an educational institution. Agricultural Operations do not include activities involving the processing or distribution of crops or fowl.
- (5) Agricultural Wastes – Unwanted or unsalable materials produced wholly from Agricultural Operations, other than forest or range management operations, directly related to the growing of crops or animals for the primary purpose of making a profit or for a livelihood. The term does not include wastes created by land use conversion to non-agricultural purposes unless the destruction of such waste by open outdoor fire is ordered by the County or State Agricultural Commissioner upon his determination that the waste is infested with infectious transmittable or contagious plant disease which is an immediate hazard to agricultural operation conducted on adjoining or nearby property.
- (6) Air Pollution Control Officer (APCO) – That person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of the California Health and Safety Code §40750 and his or her designee.
- (7) Air Contaminant or Air Pollutant – Any discharge, release, or other propagation into the atmosphere directly or indirectly caused by man and includes, but is not limited to, smoke, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matters, acids or any combination thereof.

- (8) Air-dried Coating – A coating that is cured at a temperature below 90°C (194°F).
- (9) Annual Heat Input – The total Heat Input of fuels, in Btu, burned by a Permit Unit in a calendar year, as determined from the Higher Heating Value (HHV) and cumulative annual usage of each fuel.
- (10) Architectural Coatings – Any coatings applied to stationary structures and their appurtenances; to mobile homes, to pavements, or to curbs.
- (11) Atmosphere – That portion of the air which envelopes or surrounds the earth.
- (12) Baked Coating – Any Coating that is cured at a temperature at or above 90°C (194°F).
- (13) Boiler or Steam Generator – Any combustion equipment (fired with any fuel) used to produce steam. Boiler or Steam Generator does not include any waste heat recovery boiler that is used to recover sensible heat from the exhaust of a combustion turbine.
- (14) Boundaries of the District – That region within California within which these rules are applicable. See Rule 103 – *Description of District Boundaries* for a description of the MDAQMD boundaries.
- (15) Breakdown – A condition other than a normal operating mode caused by a non-preventable mechanical or electrical failure, out of tolerance condition, or accidental occurrence such as fire, explosion, flooding, earthquake, etc.
- (16) California Air Resources Board (CARB) – The California Air Resources Board, the Executive Officer of CARB and his or her authorized representative, the powers and duties of which are described in Part 2 of Division 26 of the California Health & Safety Code (commencing with §39500).
- (17) Capture Efficiency (or Capture System Efficiency) – The portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.
- (18) Carbon Monoxide (CO) – A colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.
- (19) CARB Certified (Certified by CARB) – A Phase I or Phase II vapor recovery system, equipment, or any component thereof, for which the California Air Resources Board (CARB) has evaluated its performance and issued a valid Executive Order pursuant to Health and Safety Code Section 41954. Each component of a system is a separate CARB certified item and cannot be replaced with a non-certified item or other items that are not certified for use with the particular system. Except for qualified repairs, a CARB certified component shall be as supplied by the qualified manufacturer. A rebuilt component shall not be deemed as CARB certified unless the person who rebuilds the component is authorized by CARB to rebuild the designated CARB certified component.
- (20) Certified Vapor Recovery System – A system to limit emissions of gasoline which has been certified by the California Air Resources Board in accordance with specific criteria listed within the California Administrative Code.

- (21) Coating – A material that is applied to a surface and forms a film in order to identify, beautify, protect, convey a message, or minimize detection of such surface. Coating includes, but is not limited to, materials such as Topcoats, stains, Sealers, primers, fillers, conversion Varnish, pigmented Coating, multicolored Coating, moldseal Coating, washcoat and toner.
- (22) Combustible Refuse – Any solid or liquid combustible waste material containing carbon in a free or combined state.
- (23) Combustion Contaminants – Particulate Matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.
- (24) Compliance Schedule – The date or dates by which a source or category of sources is required to comply with specific emission limitations contained in any air pollution rule, regulation, or statute and with any increment of progress toward such compliance.
- (25) Compression-Ignited (IC) Internal Combustion Engine – An Internal Combustion Engine with operating characteristics significantly similar to the theoretical diesel combustive cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignited engine.
- (26) Continuous Emissions Monitoring System (CEMS) – All of the equipment that may be required to meet the data acquisition and availability requirements, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.
- (27) Control Device Efficiency – The ratio, in percent, of the weight of the pollutant removed by a control device from the process effluent stream entering the control device compared to the weight of pollutant entering the control device, both measured simultaneously.
- (28) Control Equipment – Air pollution control equipment which eliminates, reduces or controls the issuance of air contaminants.
- (29) Dip Coater – A type of application Equipment that coats an object by submerging the object in a vat of Coating, and subsequently withdrawing the object and draining off the excess Coating.
- (30) District – See Mojave Desert Air Quality Management District.
- (31) Dusts – Minute solid particles released into the air by natural forces or by mechanical processes including, but not limited to, crushing, grinding, milling, drilling, demolition, shoveling, conveying, covering, bagging, grading, leveling, excavation, and sweeping.
- (32) Enhanced Emissions Monitoring Device – Any automated data recording device or system having both data gathering and retrieval capabilities. Such equipment includes, but is not limited to, Continuous Emissions Monitoring Systems (CEMS) and Parametric or Predictive Emissions Monitoring Systems (PEMS).
- (33) Electrostatic Application – A method of applying Coating whereby atomized paint droplets are charged and subsequently deposited on the substrate by electrostatic attraction.

- (34) Emission Control System Operating Parameters – Any operating parameter(s) that the District deems necessary to analyze for the determination of compliance. Such parameters include, but are not limited to, the reagent flow rate, catalyst temperature, and exhaust gas flow rate.
- (35) Emissions Unit – Any article, machine, equipment, other contrivance or combination thereof which emits or has the Potential to Emit any Regulated Air Pollutant.
- (36) Equipment – Any article, machine, or other contrivance.
- (37) Excavation – Removal of surface covering, soil, pavement, etc. to expose underground equipment to view or to prepare a subsurface area for future construction.
- (38) Excess Organic Liquid Drainage
- (a) More than two (2) milliliters of liquid drainage per disconnect from a top loading operation; or
 - (b) More than ten (10) milliliters of liquid drainage from a bottom loading operation. Such liquid drainage shall be determined by computing the average drainage from three (3) consecutive disconnects at any one loading arm.
- (39) Executive Director – The Air Pollution Control Officer. See Air Pollution Control Officer.
- (40) Exempt Compound – Those compounds listed as excluded from the definition of Volatile Organic Compound in 40 CFR 51.100(s).
- (41) Existing Facility – Any Facility operating, constructed or under construction as of the date of adoption of rules related to such facility, unless otherwise specified in the rules.
- (42) Facility – Any Permit Unit, group of Permit Units, non-permitted Equipment, or any combination thereof which
- (a) Emits or may emit an Air Pollutant; and
 - (b) Belongs to a single major industrial group in the Standard Industrial Classification Manual; and
 - (c) Is located on a single parcel of land or on contiguous or adjacent property within the District; and
 - (d) Which is owned or operated by the same Person or by Persons under common control.
 - (e) For the purpose of this definition, such above-described grouping, remotely located but connected only by land carrying a pipeline, shall not be considered one Facility.

- (43) Federal Ozone Non-Attainment Area (FONA) – That portion of San Bernardino County that lies within the lines which begin at:
- (a) The San Bernardino - Riverside County boundary, running north along the range line common to Range 3 East and Range 2 East;
 - (b) Then west along the township line common to Township 2 North and Township 3 North;
 - (c) Then north along the San Bernardino - Los Angeles County Boundary and the San Bernardino - Kern County Boundary;
 - (d) Then east along latitude 35 degrees, 10 minutes north;
 - (e) Then south along longitude 115 degrees, 45 minutes west, and west along the San Bernardino - Riverside County Boundary.
- (44) Fixed Roof Tanks – A storage tank with a roof that is permanently affixed to the shell of the storage tank.
- (45) Floating Roof Tanks:
- (a) External Floating Roof – A vapor loss control device, consisting of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and which is equipped with an approved closure device between the tank shell and roof edge.
 - (b) Internal Floating Roof – A vapor loss control device consisting of a fixed roof with an internal-floating-type cover which prevents the release or emission to the atmosphere of organic vapors or gases at an efficiency equivalent to an approved External Floating Roof closure device.
- (46) Flow Coater – A Coating application system with no air supplied to the nozzle and where the paint flows over the part and the excess Coating drains back into the collection system.
- (47) Fugitive Dust – Any solid Particulate Matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of man.
- (48) Fugitive Liquid Leak – A dripping of liquid organic compounds at a rate in excess of three (3) drops per minute from any single leak source other than the disconnect operations of liquid fill line and vapor line.
- (49) Fugitive Vapor Leak – An escape of organic vapors from a source other than the tank truck, trailer or railroad tank car when measured in excess of 3,000 ppm (instrument calibrated with propane) above background at a distance of two (2) centimeters (0.8 inch) from the source for more than ten (10) seconds duration, or equivalent test method as determined by the APCO. (Background is the ambient concentration of organic compounds determined at least three (3) meters upwind of the potential source and

uninfluenced by any specific emission source.) A “fugitive vapor leak source” does not include liquid spillage or condensate resulting from “fugitive liquid leaks”.

- (50) Gasoline – Any organic liquid including petroleum distillate and methanol having a Reid Vapor Pressure of 200 mm Hg (3.9 pounds per square inch), or greater, and used as a motor vehicle fuel, or any fuel which is commonly or commercially known or sold as gasoline.
- (51) Gasoline Transfer and Dispensing Facility – A mobile system or stationary facility, consisting of one or more storage tanks and associated equipment, which receive, store and dispense gasoline.
- (52) Gasoline Vapors – The organic compounds of gasoline, which exist in a vapor state including, where present, entrained liquid gasoline.
- (53) Hearing Board – The Hearing Board of the Mojave Desert Air Quality Management District.
- (54) Heat Input – The chemical heat released due to fuel combustion in a Permit Unit, using the higher heating value of the fuel. This does not include the sensible heat of incoming combustion air.
- (55) Higher Heating Value (HHV) – The total heat liberated, including the heat of condensation of water, per mass of fuel burned (Btu per pound) when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to standard conditions.
- (56) High-Volume, Low-Pressure (HVLV) – A coating application system which is operated at air pressures between 0.1 and 10 pounds per square inch gauge (psig) measured dynamically at the center of the air cap and at the air horns.
- (57) Increments of Progress – Steps to be taken by an owner or operator to bring a source of air contaminants into compliance. See definition of “Schedule of Increments of Progress”.
- (58) Liquid Tight - A liquid leak rate of no more than 3 drops per minute.
- (59) Loading Facility – Any aggregation or combination of organic liquid loading equipment which is under the control of one person at a single location.
- (60) Mobile Fueler – Any tank truck or trailer that is used to transport and dispense gasoline from an onboard storage tank into any motor vehicle fuel tank.
- (61) Mojave Desert Air Quality Management District – The independent special district responsible for all aspects of air quality management as defined in Health and Safety Code §39038.3 and created pursuant to Chapter 13 (commencing with §41200) of Part 3, within that region of California within the boundaries as defined in Rule 103. See Rule 103 – *Description of District Boundaries*.

- (62) Motor Vehicle – Any self-propelled vehicle, including, but not limited to cars, trucks, buses, golf carts, vans, motorcycles, recreational vehicles, tanks, and armored personnel carriers as defined in Sections 415 and/or 670 of the California Vehicle Code. See Registered Motor Vehicle.
- (63) Multiple Chamber Incinerator – Any Equipment, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion chambers, physically separated by refractory walls, interconnected by gas passage ports or ducts.
- (64) Non-Absorbent Container – A container made of non-porous material that does not allow the migration of Solvents through it.
- (65) Oil-Effluent Water Separator – Any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump, or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.
- (66) Operator – That person in charge of a particular operation subject to air pollution control. See definition of “Owner”.
- (67) Organic Liquid – Any compound of carbon, including organic materials, organic solvents and gasoline, which is in a liquid phase at ambient or storage conditions.
- (68) Organic Materials – Chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.
- (69) Organic Solvents – Includes diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials exhibiting a boiling point higher than 104 °C (219 °F) at 0.5 mm Hg absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 104 °C (219 °F).
- (70) Overall Control Efficiency (CE) – The ratio of the weight of a Regulated Air Pollutant removed by an emission control system to the total weight of that Regulated Air Pollutant emitted from a controlled operation, both measured simultaneously.
- (71) Owner – That person ultimately responsible for a particular operation. Typically, “Owner/Operator” refers to any person in control or responsible for operations subject to air pollution control. See definition of “Person”.
- (72) Oxides of Nitrogen (NO_x) – The sum of the molecular forms of nitrogen oxide and nitrogen dioxide. When measured or calculated, the total of the two molecular forms is collectively expressed as nitrogen dioxide (NO₂).
- (73) Particulate Matter (PM) – Any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.

- (74) Particulate Matter (PM₁₀) – Particulate matter with an aerodynamic diameter of less than or equal to a nominal 10 micrometers as measured by a reference method based on appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method.
- (75) Particulate Matter (PM_{2.5}) – Particulate Matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometers as measured by a reference method based on appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method.
- (76) Parts Per Million (ppm) – Parts per million.
- (77) Parts per Million by Volume (ppmv) – The number of gas molecules of a given species, or group, in one million total gas molecules.
- (78) Permit Unit – Any Emissions Unit or equipment which is required to have a Permit to Operate pursuant to District Rule 203 – *Permit to Operate*.
- (79) Person – Any individual, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user or owner, or any state or local governmental agency or public district or any other officer or employee thereof. Person also means the United States or its agencies to the extent authorized by Federal Law.
- (80) Photochemically Reactive Solvent – Any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:
- (a) A combination of hydrocarbons, alcohols, aldehydes, ethers, esters or ketones having an olefinic or cycloolefinic type of unsaturation except perchloroethylene; five (5) percent;
 - (b) A combination of aromatic compounds with eight (8) or more carbon atoms to the molecule except ethylbenzene, methyl benzoate and phenyl acetate: eight (8) percent;
 - (c) A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

- (81) Potential to Emit (PTE) – The maximum capacity of a Facility to emit any air pollutant under its physical and operational design. Calculation methods, inclusions and exclusions are program specific and can be found in other District Rules.

- (82) Precursor – A substance which, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a Regulated Air Pollutant. These include, but are not limited to the following:

<u>Precursors</u>	<u>Secondary Pollutants</u>
Ammonia	(a) PM ₁₀ and PM _{2.5}
Hydrocarbons and substituted hydrocarbons (Reactive Organic Compounds and Volatile Organic Compounds)	(a) Photochemical oxidant (ozone, O ₃) (b) The organic fraction of PM ₁₀ and PM _{2.5}
Nitrogen oxides (NO _x)	(a) Nitrogen dioxide (NO ₂) (b) The nitrate fraction of PM ₁₀ and PM _{2.5} (c) Photochemical oxidant (ozone, O ₃)
Sulfur oxides (SO _x)	(a) Sulfur dioxide (SO ₂) (b) Sulfates (SO ₄) (c) The sulfate fraction of PM ₁₀ and PM _{2.5}
Hydrogen Sulfide (H ₂ S)	(a) Sulfur dioxide (SO ₂) (b) Sulfates (SO ₄) (c) The sulfate fraction of PM ₁₀ and PM _{2.5}

- (83) Predictive Emissions Monitoring System (PEMS) – The equipment necessary to monitor process and Emission Control Equipment operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
- (84) Pressure/Vacuum Relief Valve – A valve that is installed on the vent pipes of the Gasoline storage tanks to relieve pressure or vacuum build-up at preset values of pressure or vacuum.
- (85) Process Weight – The total weight of all materials introduced into any specific process which may discharge contaminants into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and air will not.
- (86) Process Weight per Hour – The total process weight divided by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.
- (87) Rated Brake Horsepower – The continuous brake horsepower rating specified for the engine by the manufacturer or listed on the nameplate of the unit, unless otherwise physically limited and specified by a condition on the engine's permit or District registration.
- (88) Rated Heat Input – The Heat Input capacity (in MMBtu/hr) specified on the nameplate of the unit, unless:

- (a) The unit is limited by permit condition to a lesser Heat Input than specified on the nameplate, in which case the limiting condition shall be used as the Rated Heat Input; or
 - (b) The unit is operated above the Heat Input capacity specified on the nameplate, in which case the maximum operated rate shall be used as the Rated Heat Input.
- (89) Reasonably Available Control Technology (RACT) – The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.
- (90) Receptor Area – That specified geographic area in which the air contaminants emitted from a source area are present or to which they may be transported.
- (91) Reduction of Animal Matter – Any heated process used for rendering, cooking, drying, dehydrating, digesting, evaporating and protein concentrating of animal matter.
- (92) Registered Motor Vehicle – Any motor vehicle which is registered or requires registration for use on the highway.
- (93) Regulated Air Pollutant – Any Air Pollutant that is subject to the provisions of State or Federal law or the regulations promulgated thereunder. Inclusion and exclusions of particular Air Pollutants are program specific and can be found in other District Rules.
- (94) Regulation – Any of the major subdivisions of the Rules of the Mojave Desert Air Quality Management District.
- (95) Retail Gasoline Station – Any motor vehicle refueling facility subject to payment of California sales tax on gasoline sales.
- (96) Roll Coater – A type of application Equipment in which a series of mechanical rollers form a thin Coating film on the surface of a roller, which is subsequently applied to a substrate by moving the substrate underneath the roller.
- (97) Rule – A rule of the Mojave Desert Air Quality Management District.
- (98) Schedule of Increments of Progress – A statement of dates when various steps are to be taken to bring a source of air contaminants into compliance with emission standards and shall include, to the extent feasible, the following:
- (a) The date of submittal of the final plan for the control of emissions of air contaminants from that source to the District.
 - (b) The date by which contracts for emission control systems or process modifications will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification.
 - (c) The date of initiation of on-site construction or installation of emission control equipment or process change.

- (d) The date by which on-site construction or installation of emission control equipment or process modification is to be completed.
 - (e) The date by which final compliance is to be achieved.
 - (f) Such other dates by which other appropriate and necessary steps shall be taken to permit close and effective supervision of progress toward timely compliance.
- (99) Solid Particulate Matter – Particulate matter which exists as a solid at standard conditions.
- (100) Solvent – Any liquid containing a Volatile Organic Compound or combination of Volatile Organic Compounds, which is used as a diluent, thinner, dissolver, viscosity reducer, cleaning agent, or for other similar uses. A Solvent may be a single compound or a blend of two (2) or more compounds.
- (101) Source Area – That specified geographic area in which air contaminants are emitted.
- (102) South Coast Air Quality Management District (SCAQMD) – The air district created pursuant to Division 26, Part 3, Chapter 5.5 of the Health & Safety Code (commencing with §40400).
- (103) Standard Conditions – A gas temperature of 15.5 °C (60 °F) and a gas pressure of 760 mm Hg (14.7 pounds per square inch) absolute.
- (104) Submerged Fill Loading - is a type of organic liquid loading operations where the discharge opening is completely submerged when the liquid level above the bottom of the vessel is eight centimeters (3.2 inches) or higher.
- (105) Submerged Fill Pipe – Any fill pipe the discharge opening of which is completely submerged when the liquid level is 15 centimeters six (6) inches) above the bottom of the container or when applied to a container which is loaded from the side, it means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 45 centimeters (18 inches) above the bottom of the container.
- (106) Switch Loading – A transfer of organic liquids with a vapor pressure of less than 77.5 mm HG (1.5 psia) under actual loading condition into any tank truck, trailer or railroad tank car that was previously loaded with an organic liquid with a vapor pressure of 77.5 mm HG (1.5 psia) or greater.
- (107) Tank Replacement – The removal and installation of a new or another storage tank.
- (108) Touch-Up Coating – Any coating used to cover minor imperfections appearing after the main coating operation.
- (109) Throughput – The mass or volume of a material or substance that is handled, or processed by a system in a given time period, such as gallons per year, tons per hour, etc.
- (110) True Vapor Pressure – The true vapor pressure under actual storage conditions as determined by the test method ASTM D-323-82.

- (111) United States Environmental Protection Agency (USEPA) – The United States Environmental Protection Agency, the Administrator of the USEPA and his or her authorized representative.
- (112) Vapor Recovery System – A system that is designed to collect or capture the vapors released and/or generated during the dispensing, transfer and/or storage of liquids, and is capable of storage, transferring and/or disposal of the recovered vapors.
- (113) Vapor Recovery System Efficiency – The estimated efficiency of the air pollution control technology which is incorporated, by means of an enforceable permit condition(s), in the Authority To Construct (ATC) and/or the Permit To Operate (PTO) of an emissions unit or process. Emission reductions attributed to lowering throughput rates or curtailing operating hours shall not be considered in determining abatement efficiency.
- (114) Vapor Tight – The detection of less than 10,000 ppm, as methane, using an appropriate hydrocarbon analyzer when sampling is performed according to the procedures specified in EPA Method 21.
- (115) Vehicle – A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.
- (116) Volatile Organic Compound (VOC) – Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and Exempt Compounds.

[SIP: See SIP Table at <http://www.mdaqmd.ca.gov>]

RESOLUTION NO. 01-_____

1 **A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE**
2 **DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS,**
3 **CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 102 –**
4 ***DEFINITION OF TERMS AND DIRECTING STAFF ACTIONS.***

5 On October 23, 2017, on motion by Member _____, seconded by
6 Member _____, and carried, the following resolution is adopted:

7 **WHEREAS**, the Mojave Desert Air Quality Management District (MDAQMD) has
8 authority pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728
9 to adopt, amend or repeal rules and regulations; and

10 **WHEREAS**, the proposed amendments to Rule 102 are necessary to shift common
11 definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency
12 and clarity; and

13 **WHEREAS**, the proposed amendments to the rule are necessary as indicated herein
14 and in the supporting documentation; and

15 **WHEREAS**, the MDAQMD has the authority pursuant to H&S Code §40702 to
16 amend rules and regulations; and

17 **WHEREAS**, the proposed amendments to Rule 102 are clear in that they are written
18 so that the persons subject to the rule can easily understand the meaning because definitions
19 have been consolidated and updated for consistency; and

20 **WHEREAS**, the amendments to Rule 102 are in harmony with, and not in conflict
21 with, or contradictory to existing statutes, court decisions, or state or federal regulations;
22 and

23 **WHEREAS**, the proposed amendments do not impose the same requirements as any
24 existing state or federal regulation; and

25 **WHEREAS**, the proposed amendments to Rule 102 are needed in order shift
26 common definitions used in the MDAQMD rulebook to Rule 102, and to update them for
27 consistency and clarity; and

28 **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to
H&S Code §40725, concerning the amendments to Rule 102; and

RESOLUTION NO. 01-_____

1 **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR
2 §15308) for the proposed amendments to Rule 102, completed in compliance with the
3 California Environmental Quality Act (CEQA), has been presented to the Governing Board
4 of the MDAQMD; each member having reviewed, considered and approved the information
5 contained therein prior to acting on the proposed amendments to Rule 102, and the
6 Governing Board of the MDAQMD having determined that the proposed amendments will
7 not have any potential for resulting in any adverse impact upon the environment; and

8 **WHEREAS**, the Governing Board of the MDAQMD has considered the evidence
9 presented at the public hearing; and

10 **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the
11 MDAQMD finds that the amendments to Rule 102 – *Definition of Terms* are necessary,
12 authorized, clear, consistent, non-duplicative and properly referenced; and

13 **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD
14 hereby makes a finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and
15 certifies the Notice of Exemption for the proposed amendments to Rule 102; and

16 **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD does
17 hereby adopt, pursuant to the authority granted by law, the proposed amendments to Rule
18 102, as set forth in the attachments to this resolution and incorporated herein by this
19 reference; and

20 **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately
21 upon adoption, and that the Executive Office Manager is directed to file the Notice of
22 Exemption in compliance with the provisions of CEQA.

23 //

24 //

25 //

26 //

27 //

28 //



Draft
Staff Report
Proposed Amendments to
Rule 102 – *Definition of Terms*

For amendment on
October 23, 2017

14306 PARK AVE, VICTORVILLE, CA 92392-2310
PHONE: (760) 245-1661
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STAFF REPORT
TABLE OF CONTENTS
Rule 102 – Definition of Terms

I. PURPOSE OF STAFF REPORT	1
II. EXECUTIVE SUMMARY	1
III. STAFF RECOMMENDATION	1
IV. LEGAL REQUIREMENTS CHECKLIST	2
V. DISCUSSION OF LEGAL REQUIREMENTS	3
A. REQUIRED ELEMENTS/FINDINGS.....	3
1. State Findings Required for Adoption of Rules & Regulations	3
a. Necessity.....	3
b. Authority.....	3
c. Clarity	3
d. Consistency.....	3
e. Nonduplication.....	3
f. Reference	4
g. Public Notice & Comment, Public Hearing.....	4
2. Federal Elements (SIP Submittals, Other Federal Submittals).....	4
a. Satisfaction of Underlying Federal Requirements	4
b. Public Notice and Comment	4
c. Availability of Document	4
d. Notice to Specified Entities	5
e. Public Hearing	5
f. Legal Authority to Adopt and Implement	5
g. Applicable State Laws and Regulations Were Followed.....	5
B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS	5
C. ECONOMIC ANALYSIS	6
1. General.....	6
2. Incremental Cost Effectiveness	6
D. ENVIRONMENTAL ANALYSIS (CEQA).....	6
E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS	6
1. Potential Environmental Impacts.....	6
2. Mitigation of Impacts	7
3. Alternative Methods of Compliance.....	7
F. PUBLIC REVIEW	7
VI. TECHNICAL DISCUSSION	7
A. SOURCE DESCRIPTION.....	7
B. EMISSIONS	7
C. CONTROL REQUIREMENTS	7
D. PROPOSED RULE SUMMARY	7
E. SIP HISTORY	8
1. SIP History	8
a. SIP in the San Bernardino County Portion of MDAQMD	8
b. SIP in the Riverside County Portion of the MDAQMD	9

2. SIP Analysis 10
Appendix A - Iterated Version..... A-1
Appendix B - Public Notice Documents..... B-1
Appendix C - Public Comments and Responses..... C-1
Appendix D - California Environmental Quality Act Documentation D-1
Appendix E - Bibliography.....E-1

List of Acronyms

BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
FCAA	Federal Clean Air Act
H&S Code	California Health & Safety Code
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NOx	Oxides of Nitrogen
RACT	Reasonably Available Control Technology
RFP	Reasonable Further Progress
SBCAPCD	San Bernardino County APCD
SCAB	South Coast Air Basin
SCAQMD	South Coast Air Quality Management District
SIP	State Implementation Plan
SOx	Oxides of Sulfur
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

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TC-4

MDAQMD Rule 102
Staff Report D2a, 10/04/2017

STAFF REPORT

Rule 102 – Definition of Terms

I. PURPOSE OF STAFF REPORT

A staff report serves several discrete purposes. Its primary purpose is to provide a summary and background material to the members of the Governing Board. This allows the members of the Governing Board to be fully informed before making any required decision. It also provides the documentation necessary for the Governing Board to make any findings, which are required by law to be made prior to the approval or adoption of a document. In addition, a staff report ensures that the correct procedures and proper documentation for approval or adoption of a document have been performed. Finally, the staff report provides evidence for defense against legal challenges regarding the propriety of the approval or adoption of the document.

II. EXECUTIVE SUMMARY

The Mojave Desert Air Quality Management District (MDAQMD) has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The MDAQMD is proposing to amend Rule 102 – *Definition of Terms* for inclusion in the current rulebook.

Many terms are defined in multiple district rules. In addition, many of these definitions are exact or near exact duplicates of each other. Pursuant to Governing Board direction regarding streamlining, the Air Pollution Control Officer (APCO) has determined that shifting common definitions to Rule 102 and updating them for consistency will improve clarity. This rule is proposed for amendment to incorporate changes proposed to comply with the RACT SIP updates proposed for Rule 461 – *Gasoline Transfer and Dispensing*, Rule 462 – *Organic Liquid Loading*, Rule 463 – *Storage of Organic Liquids*, Rule 1115 – *Metal Parts & Products Coating Operations*, and Rule 1160 – *Internal Combustion Engines*.

The amendment of Rule 102 – *Definitions of Terms* will be an ongoing process. Rule 102 will continue to be updated as needed when other District rules are proposed for amendment and contain definitions that need to be moved.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD or District) amend proposed Rule 102 – *Definition of Terms* and approve the appropriate California Environmental Quality Act (CEQA) documentation. This action is necessary to streamline the District rulebook.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendments to Rule 102 – *Definition of Terms*. Each item is discussed, if applicable, in Section V. Copies of related documents are included in the appropriate appendices.

FINDINGS REQUIRED FOR RULES & REGULATIONS:

- Necessity
- Authority
- Clarity
- Consistency
- Nonduplication
- Reference
- Public Notice & Comment
- Public Hearing

REQUIREMENTS FOR STATE IMPLEMENTATION PLAN SUBMISSION (SIP):

- Public Notice & Comment
- Availability of Document
- Notice to Specified Entities (State, Air Districts, USEPA, Other States)
- Public Hearing
- Legal Authority to adopt and implement the document.
- Applicable State laws and regulations were followed.

ELEMENTS OF A FEDERAL SUBMISSION:

N/A Elements as set forth in applicable Federal law or regulations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):

- N/A Ministerial Action
- N/A Exemption
- Negative Declaration
- N/A Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):

- Environmental impacts of compliance.
- N/A Mitigation of impacts.
- N/A Alternative methods of compliance.

OTHER:

- Written analysis of existing air pollution control requirements
- N/A Economic Analysis
- Public Review

V. DISCUSSION OF LEGAL REQUIREMENTS

A. REQUIRED ELEMENTS/FINDINGS

This section discusses the State of California statutory requirements that apply to the proposed amendments to Rule 102 – *Definition of Terms*. These are actions that need to be performed and/or information that must be provided in order to amend the rule in a procedurally correct manner.

1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the District Governing Board is required to make findings of necessity, authority, clarity, consistency, non-duplication, and reference based upon relevant information presented at the hearing. The information below is provided to assist the Governing Board in making these findings.

a. Necessity:

The proposed amendments to Rule 102 are necessary to shift common definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency and clarity.

b. Authority:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations.

c. Clarity:

The proposed amendments to Rule 102 are clear in that they are written so that the persons subject to the rule can easily understand the meaning because definitions have been consolidated and updated for consistency.

d. Consistency:

The proposed amendments to Rule 102 are in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions.

e. Nonduplication:

The proposed amendments to Rule 102 do not impose the same requirements as any existing state or federal law or regulation because existing rulebook definitions have been consolidated and updated for consistency.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendments to Rule 102 will be published September 22, 2017. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

2. Federal Elements (SIP Submittals, Other Federal Submittals).

Submittals to USEPA are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. The information below indicates which elements are required for the proposed amendments to Rule 102 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The amendments to Rule 102 are subject to all the requirements for a State Implementation Plan (SIP) submittal because Rule 102 is included in the MDAQMD SIP. The criteria for determining completeness of SIP submissions are set forth in 40 CFR Part 51, Appendix V, 2.0. In addition, FCAA §110(l) (42 U.S.C. 7410(l)) requires that any rule action which might possibly be construed as a relaxation of a requirement provide a demonstration that the change not interfere with any FCAA requirements concerning attainment or Reasonable Further Progress (RFP). Please see subsection (VI)(E) below for the applicable demonstration.

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendments to Rule 102 will be published September 22, 2017. See Appendix “B” for a copy of the public notice. See Appendix “C” for copies of comments, if any, and District responses.

c. Availability of Document:

Copies of the proposed amendments to Rule 102 and the accompanying draft staff report will be made available to the public on or before September 11, 2017. The proposed amendments were reviewed by the Technical Advisory Committee (TAC) on October 3, 2017, a committee consisting of a variety of regulated industry and local governmental entities. There were no objections from the TAC on the draft rule presented. It was the

consensus of the TAC to recommend submittal of Rule 102 to the Governing Board for adoption on October 23, 2017.

d. Notice to Specified Entities:

Copies of the proposed amendments to Rule 102 and the accompanying draft staff report were sent to all affected agencies. The proposed amendments will be sent to the California Air Resources Board (CARB) and United States Environmental Protection Agency (USEPA) on or before September 11, 2017.

e. Public Hearing:

A public hearing to consider the proposed amendments to Rule 102 has been set for October 23, 2017.

f. Legal Authority to Adopt and Implement:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations and to do such acts as may be necessary or proper to execute the duties imposed upon the District.

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Subsection (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Subsection (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Subsection (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Subsection (V)(D) below for compliance with provisions of the CEQA.

B. WRITTEN ANALYSIS OF EXISTING REQUIREMENTS

H&S Code §40727.2 requires air districts to prepare a written analysis of all existing federal air pollution control requirements that apply to the same equipment or source type as the rule proposed for modification by the district. Rule 102 does not impose any air pollution control requirements as the rule simply contains definitions for District rules. Therefore the preparation of a written analysis of existing air pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General

The proposed amendments to Rule 102 will not have an adverse economic impact on the entities subject to the proposed rule. This rule simply consolidates and clarifies existing common definitions in the District rulebook into one definition rule.

2. Incremental Cost Effectiveness

Pursuant to H&S Code §40920.6, incremental cost effectiveness calculations are required for rules and regulations which are adopted or amended to meet the California Clean Air Act (CCAA) requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds (VOCs), oxides of nitrogen (NOx) or oxides of sulfur (SOx).

The proposed amendment of Rule 102 is not subject to incremental cost effectiveness calculations because this rule does not impose BARCT or “all feasible measures”.

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Rule 102 was determined.

1. The proposed amendments to Rule 102 meet the CEQA definition of “project”. They are not “ministerial” actions.

2. The proposed amendments to Rule 102 are exempt from CEQA review because this rule is administrative in nature, and there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts. Because there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The proposed amendment of Rule 102 does not have any potential environmental impact because the amendment simply consolidates and clarifies existing common definitions in the District rulebook into one definition rule. Therefore, this rule does not have any impact upon the emission of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Subsection (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

The definitions in Rule 102 apply to all rules in the District rulebook except when a term is otherwise specifically defined in a specific rule or regulation.

B. EMISSIONS

The proposed amendment of Rule 102 does not have any potential environmental impact because the amendment simply consolidates and clarifies existing common definitions in the District rulebook in one definition rule. Therefore, this rule does not have any impact upon the emission of air contaminants.

C. CONTROL REQUIREMENTS

There are no control requirements in the amendments to Rule 102.

D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Rule 102.

Underlined text identifies new or revised language.

~~Lined out~~ text identifies language which is being deleted.

Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.

[Bracketed italicized text] is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

Please refer to the iterated version of Rule 102 in Appendix “A” of this Staff Report for any additions, deletions and changes to definitions.

E. SIP HISTORY

1. SIP History.

a. SIP in the San Bernardino County Portion of MDAQMD

Rule 102 was originally adopted on 01/07/76 by the Southern California Air Pollution Control District (So.Cal.APCD) which was created by a Joint Powers Agreement (JPA) between Los Angeles, Orange, Riverside and San Bernardino Counties to replace the previous county-wide air pollution control districts for those counties. The rule was subsequently amended on 10/08/76. On 02/01/77, pursuant to statute (Cal. Stats. 1976, Ch 324 p. 815) the South Coast Air Quality Management District (SCAQMD) was created with an initial jurisdiction that only included areas of Los Angeles, Orange, Riverside and San Bernardino Counties contained within the South Coast Air Basin (SCAB). Outlying areas remained under the So. Cal. APCD. Also on 02/01/77 the California Air Resources Board (CARB) issued Executive Order G-73 (1977) which adopted a “rule book” for those non-SCAB areas of Los Angeles, Riverside and San Bernardino Counties. CARB submitted the Executive Order G-73 (1977) rulebook on behalf of the “county” districts and these rule books included Rule 102. Rule 102 was allegedly partially disapproved as a SIP revision on 8/5/1977 (40 CFR 52.236(e)(4)) and then approved into the SIP on 6/14/1978 (43 FR 25684; 40 CFR 52.220(c)(37)(i)(A)).

By its terms Executive Order G-73 (1977) was only effective until the non-SCAB areas took other action. On 02/22/77 the JPA forming the So.Cal.APCD was formally dissolved. By the terms of the JPA upon dissolution each county would regain its county air pollution control district with a jurisdiction of the non-SCAB areas of the county and the applicable rules being the So.Cal.APCD’s rules in effect upon the date of dissolution. Thus, as of 02/22/77 the version of Rule 102 for the San Bernardino County APCD (SBCAPCD) reverted from the G-73 (1977) CARB version back to the original So.Cal.APCD 10/08/76 version.

On 07/25/77 the SBCAPCD readopted its rulebook including Rule 102. It was submitted on 11/4/1977 for inclusion into the SIP. It was partially disapproved on 12/21/1978 (43 FR 59489; 40 CFR 52.220(c)(42)(xiii)(A) and 52.228 (b)(1)(iv)). The action retained various definitions belonging to then rescinded Regulation VI – *Orchard and Citrus Grove Heaters* and disapproving the definitions “fugitive liquid leak” and “fugitive vapor leak.” Rule 102 was subsequently amended on 12/19/1988, submitted as a SIP

revision and fully approved on 11/27/1990 (55 FR 49281; 40 CFR 52.220(c)(179)(i)(B)).

On 07/01/93 the MDAQMD was formed pursuant to statute. Pursuant to statute it also retained all the rules and regulations of the SBCAPCD until such time as the Governing Board of the MDAQMD wished to adopt, amend or rescind such rules. The MDAQMD Governing Board, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD. Therefore, the current (12/19/1988) version is the one contained in the SIP.

The MDAQMD has subsequently amended Rule 102 on 06/12/2017 and was submitted by CARB as a SIP revision on 08/09/2017. This current amendment will supersede the prior submittal.

b. SIP in the Riverside County (Blythe/Palo Verde Valley) Portion of the MDAQMD

One of the provisions of the legislation which created the MDAQMD allowed areas contiguous to the MDAQMD boundaries and within the same air basin to leave their current air district and become a part of the MDAQMD. On July 1, 1994 the area commonly known as the Palo Verde Valley in Riverside County, including the City of Blythe, left the SCAQMD and joined the MDAQMD. Since USEPA adopts SIP revisions in California as effective within the jurisdictional boundaries of local air districts, when the local boundaries change the SIP as approved by USEPA for that area up to the date of the change remains as the SIP in that particular area. Upon annexation of the Blythe/Palo Verde Valley the MDAQMD acquired the SIP prior to July 1, 1994 that was effective in the Blythe/Palo Verde Valley. Therefore, the SIP history for the Blythe/Palo Verde Valley Portion of the MDAQMD is based upon the rules adopted and approved for that portion of Riverside County by SCAQMD.

The So.Cal.APCD version of Rule 102 as originally adopted 01/07/1976 and amended on 10/8/1976 and was also effective in Riverside County. In an interesting twist the Executive Order G-73 (1977) rulebook for Riverside County (submitted on the same day 2/10/1977 and in the same submission) was approved without reservation on 6/14/1978 (43 FR 25684; 40 CFR 52.220(c)(37)(i)(A)).

As of 01/01/78 the non-SCAB portions of Los Angeles, Riverside and San Bernardino Counties were allowed to “opt in” to SCAQMD (Cal Stats 1977 Ch 1195 pg. 4005). Both Los Angeles

and Riverside counties did so while San Bernardino County did not. SCAQMD amended Rule 102 on both 04/01/1977 and 09/02/1977 (pre Riverside County “opt in”) and submitted it as a SIP revision for its jurisdiction, which at that point DID NOT legally include the desert portions Riverside County, on 10/31/1977 and 11/4/1977. Approvals for these versions apparently occurred in 1978 (See 40 CFR 52.220(c)(41)(xiv)(A); 52.220(c)(42)(xiv)(A); and 52.220(c)(44)(v)(A)). After the inclusion of the non-SCAB portions of Riverside County, SCAQMD amended Rule 102 two more times on November 4, 1988 and July 9, 1993 presumably submitting them to USEPA as SIP revisions each time. It is unclear as to the result of these two submissions. Given this uncertainty the current SIP rule for the Blythe/Paloverde Valley area of Riverside County appears to be whichever is the latest version approved in 1978 at 40 CFR 52.220(c)(41)(xiv)(A), 52.220(c)(42)(xiv)(A), or 52.220(c)(44)(v)(A).

The MDAQMD has subsequently amended Rule 102 on 06/12/2017 and this version was submitted by CARB as a SIP revision on 08/09/2017. This current amendment will supersede the prior submittal.

2. SIP Analysis.

The District will request CARB to submit to USEPA the proposed amendments to Rule 102 to replace the SIP versions in effect in the San Bernardino County portion of the MDAB and the Blythe/Palo Verde Valley portion of Riverside County. The District also requests removal of all prior versions of Rule 102 from the Blythe/Palo Verde Valley portion of the MDAQMD, and that the Region IX SIPs webpage be updated to reflect the appropriate SIP information.

All the definitions proposed to be moved into Rule 102 or updated have been derived from either existing SIP rules or from SIP pending rules. Cross references to such rules have been provided in the *[bracketed italicized]* notes contained in the redline version of the rule located in Appendix “A” of this Staff Report. Specific source material for particular definitions will be provided upon request.

Appendix “A”
Rule 102 – *Definition of Terms* Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. *[Bracketed italicized text]* is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

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(Adopted: 01/07/76 Amended: 10/08/76 Amended: 01/01/77
CARB Ex. Ord. G-73: 02/01/77; Readopted: 07/25/77
Amended: 12/19/88; Amended: 06/12/17; Amended:
mm/dd/yyyy)

Rule 102 Definition of Terms

The definitions contained in this Rule shall apply to all rules within this Rulebook except when a term is otherwise **specifically** provided in a specific rule or regulation.

- (1) Actual Emissions – The actual rate of emissions of a Regulated Air Pollutant which accurately represent the emissions from an Emissions Unit. Such emissions shall be calculated using the verified actual operating hours; production rates; and types of materials processed, stored or combusted as applicable.
- (2) Aggregate Emissions – A facility-wide sum of Actual Emissions, on an emissions category specific basis, from emission units operated at a single facility.
- (3) Agricultural Burning – Open outdoor fires used in agricultural operations in the growing of crops or raising of fowls or animals, or open outdoor fires used in forest management, range improvement, or the improvement of land for wildlife and game habitat or disease and pest prevention. Agricultural burning also includes open outdoor fires used in the operation or maintenance of a system for the delivery of water for the purposes specified above.
- (4) Agricultural Operations – Any operation occurring on a ranch or farm directly related to the growing of crops, or raising of fowls or animals for the primary purpose of making profit or for a livelihood, including the growing and harvesting of crops or the raising of fowl or animals, or conducting agricultural research or instruction by an educational institution. Agricultural Operations do not include activities involving the processing or distribution of crops or fowl.
- (5) Agricultural Wastes – Unwanted or unsalable materials produced wholly from Agricultural Operations, other than forest or range management operations, directly related to the growing of crops or animals for the primary purpose of making a profit or for a livelihood. The terms does not include wastes created by land use conversion to non-agricultural purposes unless the destruction of such waste by open outdoor fire is ordered by the County or State Agricultural Commissioner upon his determination that the waste is infested with infectious transmittable or contagious plant disease which is an immediate hazard to agricultural operation conducted on adjoining or nearby property.
- (6) Air Pollution Control Officer (APCO) – That person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of the California Health and Safety Code §40750 and his or her designee.

- (7) Air Contaminant or Air Pollutant – Any discharge, release, or other propagation into the atmosphere directly or indirectly caused by man and includes, but is not limited to, smoke, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matters, acids or any combination thereof.
- (8) Air-dried Coating -- A coating that is cured at a temperature below 90°C (194°F).
[Moved from Rule 1115. See also: Rule 1106.]
- (98) Annual Heat Input – The total Heat Input of fuels, in Btu, burned by a Permit Unit in a calendar year, as determined from the Higher Heating Value (HHV) and cumulative annual usage of each fuel.
- (109) Architectural Coatings – Any coatings applied to stationary structures and their appurtenances; to mobile homes, to pavements, or to curbs.
- (110) Atmosphere – That portion of the air which envelopes or surrounds the earth.
- (12) Baked Coating -- Any Coating that is cured at a temperature at or above 90°C (194°F).
[Moved from Rule 1115. See also: Rule 1106.]
- (134) Boiler or Steam Generator – Any combustion equipment (fired with any fuel) used to produce steam. Boiler or Steam Generator does not include ~~and any~~ waste heat recovery boiler that is used to recover sensible heat from the exhaust of a combustion turbine.
[Typographical error corrected.]
- (142) Boundaries of the District – That region within California within which these rules are applicable. See Rule 103 – *Description of District Boundaries* for a description of the MDAQMD boundaries.
- (153) Breakdown – A condition other than a normal operating mode caused by a non-preventable mechanical or electrical failure, out of tolerance condition, or accidental occurrence such as fire, explosion, flooding, earthquake, etc.
- (164) California Air Resources Board (CARB) – The California Air Resources Board, the Executive Officer of CARB and his or her authorized representative, the powers and duties of which are described in Part 2 of Division 26 of the California Health & Safety Code (commencing with §39500).
- (175) Capture Efficiency (or Capture System Efficiency) – The portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.
- (186) Carbon Monoxide (CO) – A colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.
- ~~(197)~~ CARB Certified (eCertified by CARB) – A Phase I or Phase II vapor recovery system, equipment, or any component thereof, for which the California Air Resources Board (CARB) has evaluated its performance and issued a valid Executive Order pursuant to

Health and Safety Code Section 41954. Each component of a system is a separate CARB certified item and cannot be replaced with a non-certified item or other items that are not certified for use with the particular system. Except for qualified repairs, a CARB certified component shall be as supplied by the qualified manufacturer. A rebuilt component shall not be deemed as CARB certified unless the person who rebuilds the component is authorized by CARB to rebuild the designated CARB certified component. [new to D2. SCAQMD Rule 461, 4/6/2012].

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(20) Certified Vapor Recovery System – A system to limit emissions of gasoline which has been certified by the California Air Resources Board in accordance with specific criteria listed within the California Administrative Code.

(210) Coating -- A material that is applied to a surface and forms a film in order to identify, beautify, protect, convey a message, or minimize detection of such surface. Coating includes, but is not limited to, materials such as Topcoats, stains, Sealers, primers, fillers, conversion Varnish, pigmented Coating, multicolored Coating, moldseal Coating, washcoat and toner. [Derived from Rule 1106. See also: 1113, 1116.]

(2218) Combustible Refuse – Any solid or liquid combustible waste material containing carbon in a free or combined state.

(23219) Combustion Contaminants – Particulate Matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

(2430) Compliance Schedule – The date or dates by which a source or category of sources is required to comply with specific emission limitations contained in any air pollution rule, regulation, or statute and with any increment of progress toward such compliance.

(2541) Compression-Ignited (IC) Internal Combustion Engine – An Internal Combustion Engine with operating characteristics significantly similar to the theoretical diesel combustive cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignited engine.

(2562) Continuous Emissions Monitoring System (CEMS) – All of the equipment that may be required to meet the data acquisition and availability requirements ~~of this rule~~, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis. [Reference to “of this rule” removed since there are no CEMS requirements in Rule 102, but rather in a specific rule or regulation in the MDAQMD Rule Book. Change pursuant to USEPA comment.]

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(2637) Control Device Efficiency – The ratio, in percent, of the weight of the ~~VOC~~ pollutant removed by a control device from the process effluent stream entering the control device compared to the weight of ~~VOC~~ pollutant entering the control device, both measured simultaneously. [Clarification provided pursuant to USEPA comment.]

(2748) Control Equipment – Air pollution control equipment which eliminates, reduces or controls the issuance of air contaminants.

(289) Dip Coater – A type of Application Equipment that coats an object by submerging the object in a vat of Coating, and subsequently withdrawing the object and draining off the excess coating. *[Derived from MDAQMD Rule 1117, and used in the current amendment of Rule 1115.]*

(29530) District – See Mojave Desert Air Quality Management District.

(302631) Dusts – Minute solid particles released into the air by natural forces or by mechanical processes including, but not limited to, crushing, grinding, milling, drilling, demolition, shoveling, conveying, covering, bagging, grading, leveling, excavation, and sweeping.

(312732) Enhanced Emissions Monitoring Device – Any automated data recording device or system having both data gathering and retrieval capabilities. Such equipment includes, but is not limited to, Continuous Emissions Monitoring Systems (CEMS) and Parametric or Predictive Emissions Monitoring Systems (PEMS).

(32833) Electrostatic Application – A method of applying Coating whereby atomized paint droplets are charged and subsequently deposited on the substrate by electrostatic attraction.

(332934) Emission Control System Operating Parameters – Any operating parameter(s) that the District deems necessary to analyze for the determination of compliance. Such parameters include, but are not limited to, the reagent flow rate, catalyst temperature, and exhaust gas flow rate.

(34035) Emissions Unit – Any article, machine, equipment, other contrivance or combination thereof which emits or has the Potential to Emit any Regulated Air Pollutant.

(35136) Equipment – Any article, machine, or other contrivance.

(36237) Excavation – Removal of surface covering, soil, pavement, etc. to expose underground equipment to view or to prepare a subsurface area for future construction.

(37338) Excess Organic Liquid Drainage

- (a) More than two (2) milliliters of liquid drainage per disconnect from a top loading operation; or
- (b) More than ten (10) milliliters of liquid drainage from a bottom loading operation. Such liquid drainage shall be determined by computing the average drainage from three (3) consecutive disconnects at any one loading arm.

(38439) Executive Director – The Air Pollution Control Officer. See Air Pollution Control Officer.

(39540) Exempt Compound – Those compounds listed as excluded from the definition of Volatile Organic Compound in 40 CFR 51.100(s).

(403641) Existing Facility – Any Facility operating, constructed or under construction as of the date of adoption of rules related to such facility, unless otherwise specified in the rules. *[Clarification added pursuant to USEPA comment.]*

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(413742) Facility – Any Permit Unit, group of Permit Units, non-permitted Equipment, or any combination thereof which

- (a) Emits or may emit an Air Pollutant; and
- (b) Belongs to a single major industrial group in the Standard Industrial Classification Manual; and
- (c) Is located on a single parcel of land or on contiguous or adjacent property within the District; and
- (d) Which is owned or operated by the same Person or by Persons under common control.
- (e) For the purpose of this definition, such above-described grouping, remotely located but connected only by land carrying a pipeline, shall not be considered one Facility.

(423843) Federal Ozone Non-Attainment Area (FONA) – That portion of San Bernardino County that lies within the lines which begin at:

- (a) The San Bernardino - Riverside County boundary, running north along the range line common to Range 3 East and Range 2 East;
- (b) Then west along the township line common to Township 2 North and Township 3 North;
- (c) Then north along the San Bernardino - Los Angeles County Boundary and the San Bernardino - Kern County Boundary;
- (d) Then east along latitude 35 degrees, 10 minutes north;
- (e) Then south along longitude 115 degrees, 45 minutes west, and west along the San Bernardino - Riverside County Boundary.

(44) Fixed Roof Tanks - A storage tank with a roof that is permanently affixed to the shell of the storage tank. *[New to D2. definition from Yolo-Solano Rule 2.21 09/14/16]*

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(45) Floating Roof Tanks:

(a) External Floating Roof - A vapor loss control device, consisting of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and which is equipped with an approved closure device between the tank shell and roof edge. [New to D2. Placer APCD, Rule 212 – Storage of Organic Liquids, 6/19/97]

(2b) Internal Floating Roof - A vapor loss control device consisting of a fixed roof with an internal-floating-type cover which prevents the release or emission to the atmosphere of organic vapors or gases at an efficiency equivalent to an approved External Floating Roof closure device. [New to D2. Placer APCD, Rule 212 – Storage of Organic Liquids, 6/19/97. Numbering format changed pursuant to USEPA comment.]

(4346) Flow Coater – A Coating application system with no air supplied to the nozzle and where the paint flows over the part and the excess Coating drains back into the collection system. [Derived from MDAQMD Rule 1117 and used in the current amendment of Rule 1115.]

(443947) Fugitive Dust – Any solid Particulate Matter that becomes airborne, other than that emitted from an exhaust stack, directly or indirectly as a result of the activities of man.

(45048) Fugitive Liquid Leak – A dripping of liquid organic compounds at a rate in excess of three (3) drops per minute from any single leak source other than the disconnect operations of liquid fill line and vapor line.

(46449) Fugitive Vapor Leak – An escape of organic vapors from a source other than the tank truck, trailer or railroad tank car when measured in excess of 3,000 ppm (instrument calibrated with propane) above background at a distance of two (2) centimeters (0.8 inch) from the source for more than ten (10) seconds duration, or equivalent test method as determined by the APCO. (Background is the ambient concentration of organic compounds determined at least three (3) meters upwind of the potential source and uninfluenced by any specific emission source.) A “fugitive vapor leak source” does not include liquid spillage or condensate resulting from “fugitive liquid leaks”.

(47250) Gasoline – Any organic liquid including petroleum distillate and methanol having a Reid Vapor Pressure of 200 mm Hg (3.9 pounds per square inch), or greater, and used as a motor vehicle fuel, or any fuel which is commonly or commercially known or sold as gasoline.

(48351) Gasoline Storage-Transfer and Dispensing Facility – ~~Any aggregate of one or more stationary storage containers~~ is a mobile system or stationary facility, consisting of one or more storage tanks and associated equipment, which receive, store and dispense gasoline; together with, but not limited to, dispensers, pumps, loading racks and/or control equipment used to store and transfer gasoline. [new to D2. Definition updated]

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based on SCAQMD Rule 461, 4/6/2012. Typographical error corrected pursuant to USEPA comment.

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- (49452) Gasoline Vapors – The organic compounds of gasoline, which exist in a vapor state including, where present, entrained liquid gasoline.
- (45053) Hearing Board – The Hearing Board of the Mojave Desert Air Quality Management District.
- (514654) Heat Input – The chemical heat released due to fuel combustion in a Permit Unit, using the higher heating value of the fuel. This does not include the sensible heat of incoming combustion air.
- (524755) Higher Heating Value (HHV) – The total heat liberated, including the heat of condensation of water, per mass of fuel burned (Btu per pound) when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to standard conditions.
- (534856) High-Volume, Low-Pressure (HVLV) – A coating application system which is operated at air pressures between 0.1 and 10 pounds per square inch gauge (psig) measured dynamically at the center of the air cap and at the air horns.
- (544957) Increments of Progress – Steps to be taken by an owner or operator to bring a source of air contaminants into compliance. See definition of “Schedule of Increments of Progress”.
- (58) Liquid Tight - A liquid leak rate of no more than 3 drops per minute. [New to D2, definition updated based on , Yolo-Solano Rule 2.22 01/14/15, Placer Rule 214 02/22/13, SCAQMD Rule 461, 4/6/2012]
- (55059) Loading Facility – Any aggregation or combination of organic liquid loading equipment which is under the control of one person at a single location.
- (56160) Mobile Fueler – Is any tank truck or trailer that is used to transport and dispense gasoline from an onboard storage tank into any motor vehicle fuel tank. [New to D2. Definition obtained from SCAQMD Rule 461, 4/6/2012]
- (61) Mojave Desert Air Quality Management District – The independent special district responsible for all aspects of air quality management as defined in Health and Safety Code §39038.3 and created pursuant to Chapter 13 (commencing with §41200) of Part 3, within that region of California within the boundaries as defined in Rule 103. See Rule 103 – *Description of District Boundaries*.
- (57262) Motor Vehicle – Any self-propelled vehicle, including, but not limited to cars, trucks, buses, golf carts, vans, motorcycles, recreational vehicles, tanks, and armored personnel carriers as defined in Sections 415 and/or 670 of the California Vehicle Code. A vehicle which is self-propelled. See Registered Motor Vehicle. [See Rule 1116 and referenced CVC sections.]

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- | ~~(58363)~~ Multiple Chamber Incinerator – Any Equipment, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion chambers, physically separated by refractory walls, interconnected by gas passage ports or ducts.
- | ~~(59464)~~ Non-Absorbent Container – A container made of non-porous material that does not allow the migration of Solvents through it.
- | ~~(605565)~~ Oil-Effluent Water Separator – Any tank, box, sump or other container in which any petroleum or product thereof, floating on or entrained or contained in water entering such tank, box, sump, or other container, is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.
- | ~~(56466)~~ Operator – That person in charge of a particular operation subject to air pollution control. See definition of “Owner”.
- | ~~(625767)~~ Organic Liquid – *Any compound of carbon, including organic materials, organic solvents and gasoline, which is in a liquid phase at ambient or storage conditions. [New to D2. Definition moved from MDAQMD Rule 461]*
- | ~~(68)~~ Organic Materials – Chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.
- | ~~(635869)~~ Organic Solvents – Includes diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials exhibiting a boiling point higher than 104 °C (219 °F) at 0.5 mm Hg absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 104 °C (219 °F).
- | ~~(645970)~~ Overall Control Efficiency (CE) – The ratio of the weight of a Regulated Air Pollutant removed by an emission control system to the total weight of that Regulated Air Pollutant emitted from a controlled operation, both measured simultaneously.
- | ~~(65071)~~ Owner – That person ultimately responsible for a particular operation. Typically, “Owner/Operator” refers to any person in control or responsible for operations subject to air pollution control. See definition of “Person”.
- | ~~(66472)~~ Oxides of Nitrogen (NO_x) – The sum of the molecular forms of nitrogen oxide and nitrogen dioxide. When measured or calculated, the total of the two molecular forms is collectively expressed as nitrogen dioxide (NO₂).
- | ~~(67273)~~ Particulate Matter (PM) – Any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.
- | ~~(68374)~~ Particulate Matter (PM)₁₀ – Particulate matter with an aerodynamic diameter of less than or equal to a nominal 10 micrometers as measured by a reference method based

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on appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method.

~~(69475)~~ Particulate Matter (PM_{2.5}) – Particulate Matter with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometers as measured by a reference method based on appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method.

~~(706576)~~ Parts Per Million (ppm) – Parts per million.

~~(716677)~~ Parts per Million by Volume (ppmv) – The number of gas molecules of a given species, or group, in one million total gas molecules.

~~(67278)~~ Permit Unit – Any Emissions Unit or equipment which is required to have a Permit to Operate pursuant to District Rule 203 – *Permit to Operate*.

~~(736879)~~ Person – Any individual, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user or owner, or any state or local governmental agency or public district or any other officer or employee thereof. Person also means the United States or its agencies to the extent authorized by Federal Law.

~~(746980)~~ Photochemically Reactive Solvent – Any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

- (a) A combination of hydrocarbons, alcohols, aldehydes, ethers, esters or ketones having an olefinic or cycloolefinic type of unsaturation except perchloroethylene; five (5) percent;
- (b) A combination of aromatic compounds with eight (8) or more carbon atoms to the molecule except ethylbenzene, methyl benzoate and phenyl acetate: eight (8) percent;
- (c) A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

~~(75081)~~ Potential to Emit (PTE) – The maximum capacity of a Facility to emit any air pollutant under its physical and operational design. Calculation methods, inclusions and exclusions are program specific and can be found in other District Rules.

(76182) **Precursor** – A substance which, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a Regulated Air Pollutant. These include, but are not limited to the following:

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Precursors	Secondary Pollutants
Ammonia	(a) PM ₁₀ and PM _{2.5}
Hydrocarbons and substituted hydrocarbons (Reactive Organic Compounds and Volatile Organic Compounds)	(a) Photochemical oxidant (ozone, O ₃) (b) The organic fraction of PM ₁₀ and PM _{2.5}
Nitrogen oxides (NO _x)	(a) Nitrogen dioxide (NO ₂) (b) The nitrate fraction of PM ₁₀ and PM _{2.5} (c) Photochemical oxidant (ozone, O ₃)
Sulfur oxides (SO _x)	(a) Sulfur dioxide (SO ₂) (b) Sulfates (SO ₄) (c) The sulfate fraction of PM ₁₀ and PM _{2.5}
Hydrogen Sulfide (H ₂ S)	(a) Sulfur dioxide (SO ₂) (b) Sulfates (SO ₄) (c) The sulfate fraction of PM ₁₀ and PM _{2.5}

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[Table modified for clarification pursuant to USEPA comment.]

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(72783) **Predictive Emissions Monitoring System (PEMS)** – The equipment necessary to monitor process and Emission Control Equipment operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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(7884) **“Pressure/Vacuum Relief Valve”** – A valve that is installed on the vent pipes of the Gasoline storage tanks to relieve pressure or vacuum build-up at preset values of pressure or vacuum. *[Derived from AVAQMD, Rule 461-Gasoline Transfer and Dispensing, 10/21/08]*

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(79385) **Process Weight** – The total weight of all materials introduced into any specific process which may discharge contaminants into the atmosphere. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and air will not.

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(807486) **Process Weight per Hour** – The total process weight divided by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

(817587) **Rated Brake Horsepower** – The continuous brake horsepower rating specified for the engine by the manufacturer or listed on the nameplate of the unit, unless otherwise

physically limited and specified by a condition on the engine's permit or District registration.

- (~~827688~~) Rated Heat Input – The Heat Input capacity (in MMBtu/hr) specified on the nameplate of the unit, unless:
- (a) The unit is limited by permit condition to a lesser Heat Input than specified on the nameplate, in which case the limiting condition shall be used as the Rated Heat Input; or
 - (b) The unit is operated above the Heat Input capacity specified on the nameplate, in which case the maximum operated rate shall be used as the Rated Heat Input.
- (~~837789~~) Reasonably Available Control Technology (RACT) – The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.
- (~~78490~~) Receptor Area – That specified geographic area in which the air contaminants emitted from a source area are present or to which they may be transported.
- (~~857991~~) Reduction of Animal Matter – Any heated process used for rendering, cooking, drying, dehydrating, digesting, evaporating and protein concentrating of animal matter.
- (~~86092~~) Registered Motor Vehicle – Any motor vehicle which is registered or requires registration for use on the highway.
- (~~87493~~) Regulated Air Pollutant – Any Air Pollutant that is subject to the provisions of State or Federal law or the regulations promulgated thereunder. Inclusion and exclusions of particular Air Pollutants are program specific and can be found in other District Rules.
- (~~88294~~) Regulation – Any of the major subdivisions of the Rules of the Mojave Desert Air Quality Management District.
- (~~89395~~) Retail Gasoline Station – Any motor vehicle refueling facility subject to payment of California sales tax on gasoline sales.
- (~~9096~~) Roll Coater -- A type of Application Equipment in which a series of mechanical rollers form a thin Coating film on the surface of a roller, which is subsequently applied to a substrate by moving the substrate underneath the roller. [Derived from MDAQMD Rule 1117 and used in the current amendment of Rule 1115.]
- (~~918497~~) Rule – A rule of the Mojave Desert Air Quality Management District.
- (~~928598~~) Schedule of Increments of Progress – A statement of dates when various steps are to be taken to bring a source of air contaminants into compliance with emission standards and shall include, to the extent feasible, the following:

- (a) The date of submittal of the final plan for the control of emissions of air contaminants from that source to the District.
- (b) The date by which contracts for emission control systems or process modifications will be awarded, or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification.
- (c) The date of initiation of on-site construction or installation of emission control equipment or process change.
- (d) The date by which on-site construction or installation of emission control equipment or process modification is to be completed.
- (e) The date by which final compliance is to be achieved.
- (f) Such other dates by which other appropriate and necessary steps shall be taken to permit close and effective supervision of progress toward timely compliance.

- | (938699) Solid Particulate Matter – Particulate matter which exists as a solid at standard conditions.
- | (9487100) Solvent – Any liquid containing a Volatile Organic Compound or combination of Volatile Organic Compounds, which is used as a diluent, thinner, dissolver, viscosity reducer, cleaning agent, or for other similar uses. A Solvent may be a single compound or a blend of two (2) or more compounds.
- | (9588101) Source Area – That specified geographic area in which air contaminants are emitted.
- | (896102) South Coast Air Quality Management District (SCAQMD) – The air district created pursuant to Division 26, Part 3, Chapter 5.5 of the Health & Safety Code (commencing with §40400).
- | (970103) Standard Conditions – A gas temperature of 15.5 °C (60 °F) and a gas pressure of 760 mm Hg (14.7 pounds per square inch) absolute.
- | (104) Submerged Fill Loading - is a type of organic liquid loading operations where the discharge opening is completely submerged when the liquid level above the bottom of the vessel is eight centimeters (3.2 inches) or higher. [New to D2. Definition from SCAQMD Rule 462 – Organic Liquid Loading, 5/14/1999].
- | (984105) Submerged Fill Pipe – Any fill pipe the discharge opening of which is completely submerged when the liquid level is 15 centimeters six (6) inches) above the bottom of the container or when applied to a container which is loaded from the side, it means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 45 centimeters (18 inches) above the bottom of the container.

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~~(992106)~~ Switch Loading – A transfer of organic liquids with a vapor pressure of less than 77.5 mm HG (1.5 psia) under actual loading condition into any tank truck, trailer or railroad tank car that was previously loaded with an organic liquid with a vapor pressure of 77.5 mm HG (1.5 psia) or greater.

~~(10093107)~~ Tank Replacement – The removal and installation of a new or another storage tank.

~~(10194108)~~ Touch-Up Coating – Any coating used to cover minor imperfections appearing after the main coating operation.

~~(10295109)~~ Throughput – The mass or volume of a material or substance that is handled, or processed by a system in a given time period, such as gallons per year, tons per hour, etc.

~~(110)~~ True Vapor Pressure - The true vapor pressure under actual storage conditions as determined by the test method ASTM D-323-82. [Placer APCD, Rule 212 – Storage of Organic Liquids, 6/19/97]

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~~(103111)~~ United States Environmental Protection Agency (USEPA) – The United States Environmental Protection Agency, the Administrator of the USEPA and his or her authorized representative.

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~~(10496112)~~ Vapor Recovery System – A system that is designed to collect or capture the vapors released and/or generated during the dispensing, transfer and/or storage of liquids, and is capable of storage, transferring and/or disposal of the recovered vapors.

~~(105113)~~ Vapor Recovery System Efficiency – means†The estimated efficiency of the air pollution control technology which is incorporated, by means of an enforceable permit condition(s), in the Authority To Construct (ATC) and/or the Permit To Operate (PTO) of an emissions unit or process. Emission reductions attributed to lowering throughput rates or curtailing operating hours shall not be considered in determining abatement efficiency. [Derived from AVAQMD, Rule 461-Gasoline Transfer and Dispensing, 10/21/08]

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~~(106114)~~ Vapor Tight – means†The detection of less than 10,000 ppm, as methane, using an appropriate hydrocarbon analyzer when sampling is performed according to the procedures specified in EPA Method 21. [Derived from AVAQMD, Rule 461-Gasoline Transfer and Dispensing, 10/21/08]

~~(1097115)~~ Vehicle – A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved by human power or used exclusively upon stationary rails or tracks.

~~(1098116)~~ Volatile Organic Compound (VOC)– Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and Exempt Compounds.

[SIP: See SIP Table at <http://www.mdaqmd.ca.gov>]

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Appendix “B”
Public Notice Documents

1. Proof of Publication – Daily Press, 09/22/2017
2. Proof of Publication – Riverside Press Enterprise, 09/22/2017

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PROOF OF PUBLICATION

(2015.5 C.C.P.)

**STATE OF CALIFORNIA,
County of San Bernardino**

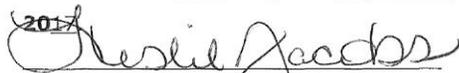
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the publisher of the DAILY PRESS, a newspaper of general circulation, published in the City of Victorville, County of San Bernardino, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of San Bernardino, State of California, under the date of November 21, 1938, Case number 43096, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

September 22

All in the year 2017.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated this: 22nd day of September,



Signature
Leslie Jacobs

This space is the County Clerk's Filing Stamp

**FILED
MOJAVE DESERT AQMD
CLERK OF THE BOARD**

SEP 27 2017

BY: 

**Proof of Publication of
NOTICE OF HEARING**

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on October 23, 2017 at 10:00 A.M. to consider the proposed amendment of Rule 102 - Definition of Terms, Rule 461 - Gasoline Transfer and Dispensing, Rule 462 - Organic Liquid Loading, Rule 463 - Storage of Organic Liquids, Rule 1115 - Metal Parts & Products Coating Operations, and Rule 1160 - Internal Combustion Engines.

SAID HEARING will be conducted in the Governing Board Chambers located at the MDAQMD offices 14306 Park Avenue, Victorville, CA 92392-2310 where all interested persons may be present and be heard. Copies of the proposed rules and the associated Staff Reports are on file and may be obtained from the Executive Office Manager at the MDAQMD Offices. Written comments may be submitted to Brad Portiez, APCO at the above office address. Written comments should be received no later than October 20, 2017 to be considered. If you have any questions regarding Rule 102 or Rule 1115 you may contact Tracy Walters at (760) 245-1661 extension 6122 for further information. If you have any questions regarding Rules 461, 462,

FOR FURTHER INFORMATION

If you have any questions regarding Rule 1160 you may contact Shen Haggard at extension 1864 for further information. Traducción esta disponible por solicitud.

The proposed amendment of Rule 102 - Definition of Terms is necessary to shift common definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency and clarity.

Rules 461, 462, 463, 1115 and 1160 are proposed for amendment to satisfy 42 U.S.C. 887511a (Federal Clean Air Act (CAA) 8182) which requires that ozone non-attainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) and for major sources of ozone precursors.

Pursuant to the California Environmental Quality Act (CEQA), the MDAQMD has determined that a Categorical Exemption (Class 8 - 14 Cal. Code Reg 153308) applies and has prepared a Notice of Exemption for this action.

Published in the Daily Press
September 22, 2017
(P-95)

THE PRESS-ENTERPRISE

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09/22/2017

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Date: September 22, 2017
At: Riverside, California



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NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will conduct a public hearing on October 23, 2017 at 10:00 A.M. to consider the proposed amendment of Rule 102 - Definition of Terms, Rule 461 - Gasoline Transfer and Dispensing, Rule 462 - Organic Liquid Loading, Rule 463 - Storage of Organic Liquids, Rule 1115 - Metal Parts & Products Coating Operations, and Rule 1160 - Internal Combustion Engines.

SAID HEARING will be conducted in the Governing Board Chambers located at the MDAQMD offices 14306 Park Avenue, Victorville, CA 92392-2310 where all interested persons may be present and be heard. Copies of the proposed rules and the associated Staff Reports are on file and may be obtained from the Executive Office Manager at the MDAQMD Offices. Written comments may be submitted to Brad Polrley, AFPO of the above office address. Written comments should be received no later than October 20, 2017 to be considered. If you have any questions regarding Rule 102 or Rule 1115 you may contact Tracy Walters at (760) 245-1661 extension 6122 for further information. If you have any questions regarding Rules 461, 462, or 463 you may contact Michelle Zumwalt at extension 2755 for further information. If you have any questions regarding Rule 1160 you may contact Sheri Haggard at extension 1864 for further information. Traducción - esto disponible por solicitud.

The proposed amendment of Rule 102 - Definition of Terms is necessary to shift common definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency and clarity.

Rules 461, 462, 463, 1115 and 1160 are proposed for amendment to satisfy 42 U.S.C. 697511c (Federal Clean Air Act (CAA) §182) which requires that ozone nonattainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) and for major sources of ozone precursors.

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 5 - 14 Cal. Code Reg §15308) applies and has prepared a Notice of Exemption for this action.

9/22

FILED
MOJAVE DESERT AQMD
CLERK OF THE BOARD

SEP 27 2017

BY 

Appendix “C”
Public Comments and Responses

1. EPA comments on Mojave Desert AQMD Draft Rule 102, Definition of Terms, scheduled for adoption on October 23, 2017.

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1. EPA Comment

Tracy Walters

From: Law, Nicole <Law.Nicole@epa.gov>
Sent: Monday, September 25, 2017 4:23 PM
To: Tracy Walters; Alan De Salvo; Brad Poiriez; Sutkus, Carol@ARB; ariel.fidelity@arb.ca.gov
Cc: Steckel, Andrew
Subject: EPA comments on Mojave Desert AQMD draft Rule 102, Definition of Terms, scheduled for adoption on October 23, 2017

Hi Tracy,

We provide comments below on the draft revisions to Rule 102 provided to us by email from you on September 12, 2017. Numbers in parentheses refer to the paragraph number in the draft rule. Feel free to contact me at (415) 947-4126 with any questions regarding these comments.

Sincerely,
Nicole Law

(1) *Actual Emissions* – We believe this and several other definitions in Rule 102 will be superceded for use in Mojave’s permit requirements by definitions in Rule 1301, “NSR Definitions.” If these terms are only used in Mojave’s Regulation 13, consider removing them from Rule 102.

1

(13) *Boiler or Steam Generator* – Correct the typo as: “Boiler or Steam Generator does not include ~~any~~ waste heat...”

(18) *Carbon Monoxide (CO)* – Consider deleting this definition because: (a) the term is commonly understood, (b) other compounds might also meet the definition currently provided in Rule 102, and (c) South Coast, Bay Area, San Joaquin and other Districts do not define the term in their analogous definition rules.

(19) *CARB certified (Certified by CARB)* – We understand this definition is used in South Coast Rule 461 with respect to Phase I and Phase II transfers. However, it seems it would now also be relied on by Mojave Rule 462, which applies to bulk terminal and bulk plant transfers (e.g., draft Rule 462 (C)(1)(a)(i)). It is not clear that referring to Phase I and Phase II VR is appropriate for bulk terminal/plant transfers. Consider deleting the reference to Phase I/II.

(20) *Certified Vapor Recovery System* - This definition seems redundant to the more comprehensive and specific definition (19). Consider deleting (20), combining it with (19), or revising the references to "CARB certified" in Rules 461 and 462 to be clear which definition is being used.

2

(26) *Continuous Emissions Monitoring System* – Consider revising “...requirements of this rule,” since “this rule” would seem to refer to Rule 102, which doesn’t have any CEMS requirements.

3

(27) *Control Device Efficiency* – This definition applies only to VOC. Consider whether the term might also be used by Mojave for any other pollutant.

4

(41) *Existing Facility* – Consider revising to, “... as of the date of adoption of rules related to such facility, unless otherwise specified in the rules...”

5

(45)(2) *Internal Floating Roof* – Consider revising numbering to (45)(b). Also, this definition is confusing because “floating roof” seems to refer to both the outer fixed roof and the roof resting on liquid. Consider revising consistent with EPA’s model rule definition: “A cover or roof in a fixed roof tank that rests upon or is floated upon the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between roof edge and tank

shell." Lastly, it is unclear how devices would be "approved" as provided in the definition, or who would do the approving.

(47) *Fugitive Dust* – Consider revising, e.g., similar to San Joaquin Rule 8011.

(49) *Fugitive Vapor Leak* – Please remove Executive Officer discretion for an alternative test method. e.g., cite EPA Method 21 (see SCAQMD Rule 462), include criteria to determine equivalent test method, or add EPA and CARB for approval of equivalent test methods.

6 → (51) *Gasoline Transfer and Dispensing Facility* – Correct the typo as, "...store and dispense..."

(62) *Motor Vehicle* – Consider revising to specify the date of the version of the CVC relied on for this definition.

(66) *Operator* and

(71) *Owner* – Consider replacing here and in the underlying rules with the clearer definition of owner/operator in CAA 112(a)(9), "...any person who owns, leases, operates, controls, or supervises a stationary source."

(74) *Particulate Matter (PM₁₀)* – While this definition appropriately references the size of the particulate matter, it should also state that gaseous emissions are included. E.g., "Particulate matter with aerodynamic diameter less than or equal to a nominal ten (10) microns. Gaseous emissions which condense to form particulate matter at ambient temperatures shall be included." Also, the references to 40 CFR 50 appendix J are not appropriate because appendix J is designed to determine atmospheric concentrations of PM₁₀.

(75) *Particulate Matter (PM_{2.5})* – See previous comment. In addition, the definition of "direct PM_{2.5} emissions" in 40 CFR 51.1000 may be cited to better define this term.

(76) *Parts Per Million (ppm)* - Because there is a definition for the term "parts per million by volume," a definition for "parts per million by weight" may be helpful as well.

7 → (82) *Precursor* – The placement of Hydrogen Sulfide spanning to columns in the table is confusing.

(84) *Pressure/Vacuum Relief Valve* – Consider whether this definition is overly narrow, and should be revised to apply to organic liquid storage tanks as well as gasoline storage. E.g., Mojave draft Rule 462 requires P/V valves on organic liquid storage tanks for bulk plant transfers (C)(2)(a)(iv), while this definition appears to only apply to gasoline. Additionally, Rule 463 requires certain organic liquid storage tanks be equipped with P/V valves in (C)(2). Definitions of P/V valves in other similar rules are more general. For example, Yolo-Solano Rule 2.21 defines P/V relief valves as, "a valve for relieving any pressure or vacuum exceeding acceptable limits."

(104) *Submerged Fill Loading* – Consider whether revisions could reduce potential confusion from defining two similar terms, "submerged fill loading" and "submerged fill pipe," which have different requirements.

(108) *Touch-Up Coating* – The District's recent redline version of Rule 1162 suggests that a definition of "Touch Up" is being moved to 102. However, Rule 102 defines "touch-up coating," not "touch up." Consider whether this difference could create potential confusion.

(110) *True Vapor Pressure* – This appears to provide an incorrect definition and test method. See, for example, San Joaquin Rule 4623, which states, "... the equilibrium partial pressure exerted by an organic liquid at storage temperature." Also, the test method referenced determines Reid vapor pressure, not True Vapor Pressure.

(113) *Vapor Recovery System Efficiency* – Other Districts typically define vapor recovery system, and then specify a vapor recovery efficiency percent or an emissions limit as a requirement in the rule. Also, it is not obvious why definition references to ATC and PTO. Consider deleting this definition altogether, or revising it to clarify and to remove the ATC/PTO references.

(114) *Vapor tight* - Consider revising the 10,000 ppm level consistent with analogous definitions in other areas. For example, Yolo-Solano Rule 2.21 uses 1,000 ppmv above background, calibrated with methane, and South Coast Rule 463 uses 500 ppm.

Nicole Law
Rules Office, Air Division
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, 94105
Office: (415) 947-4126

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1. District response to EPA Comment

It is intended that Rule 102 will be amended in conjunction with January 22, 2018 rule amendments. The balance of more substantive changes noted in EPA comments will be addressed at this time. Several comments address non-substantive typographical and formatting errors that are easily corrected and incorporated in the current rule amendment. These changes are noted as follows:

1. Typographical error corrected.
2. Reference to “of this rule” removed since there are no CEMS requirements in this rule, but rather in a specific rule or regulation in the MDAQMD Rule Book
3. “VOC” changed to “pollutant” as suggested.
4. Added suggested language for clarification as suggested.
5. Numbering format changed for consistency.
6. Typographical error corrected.
7. Precursor Table modified for clarification.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – San Bernardino County
2. Draft Notice of Exemption – Riverside County

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NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

X MDAQMD Clerk of the Governing Board

PROJECT TITLE: Amendment of Rule 102 – *Definition of Terms*.

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: The proposed amendment of Rule 102 – *Definition of Terms* is necessary to shift common definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency and clarity.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

X Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 102 are exempt from CEQA review because this rule is administrative in nature, and there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts. Because there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** October 23, 2017

DATE RECEIVED FOR FILING:

NOTICE OF EXEMPTION

TO: Clerk/Recorder
Riverside County
3470 12th St.
Riverside, CA 92501

FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

MDAQMD Clerk of the Governing Board

PROJECT TITLE: Amendment of Rule 102 – *Definition of Terms*.

PROJECT LOCATION – SPECIFIC: San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

PROJECT LOCATION – COUNTY: San Bernardino and Riverside Counties

DESCRIPTION OF PROJECT: The proposed amendment of Rule 102 – *Definition of Terms* is necessary to shift common definitions used in the MDAQMD rulebook to Rule 102, and to update them for consistency and clarity.

NAME OF PUBLIC AGENCY APPROVING PROJECT: Mojave Desert AQMD

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mojave Desert AQMD

EXEMPT STATUS (CHECK ONE)

Ministerial (Pub. Res. Code §21080(b)(1); 14 Cal Code Reg. §15268)

Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))

Categorical Exemption – Class 8 (14 Cal Code Reg. §15308)

REASONS WHY PROJECT IS EXEMPT: The proposed amendments to Rule 102 are exempt from CEQA review because this rule is administrative in nature, and there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts. Because there is no potential that the adoption might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** October 23, 2017

DATE RECEIVED FOR FILING:

Appendix “E” Bibliography

The following documents were consulted in the preparation of this staff report.

1. MDAQMD Rule 461 – *Gasoline Transfer and Dispensing*
2. MDAQMD Rule 462 – *Organic Liquid Loading*
3. MDAQMD Rule 463 – *Storage of Organic Liquids*
4. MDAQMD Rule 1115 – *Metal Parts & Products Coating Operations*
5. MDAQMD Rule 1160 – *Internal Combustion Engines*

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The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 461 – Gasoline Transfer and Dispensing, Rule 462 – Organic Liquid Loading and Rule 463 – Storage of Organic Liquids and continue public hearing to January 22, 2018. Presenter: Alan De Salvo.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #15

PAGE 1

DATE: October 23, 2017

RECOMMENDATION: Conduct a public hearing to consider the amendments of Rule 461 - *Gasoline Transfer and Dispensing*, Rule 462- *Organic Liquid Loading* and Rule 463 – *Storage of Organic Liquids* and continue public hearing to January 22, 2018.

SUMMARY: Rules 461, 462 and 463 are proposed for amendment to satisfy 42 U.S.C. §§7511a (Federal Clean Air Act (FCAA) §182) which requires that ozone non-attainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) and for major sources of ozone precursors. Additionally, the District is amending this rule to satisfy a prior commitment to implement the provisions of H&S Code §39614(d) (expired by its own terms on January 1, 2011) which required the adoption of readily available, feasible and cost-effective control measures for Particulate Matter from a list of potential local control measures promulgated by the California Air Resources Board (CARB). The rule needs to be continued to address substantive comments received from the U.S. Environmental Protection Agency.

CONFLICT OF INTEREST: None

BACKGROUND: The FCAA requires areas designated non-attainment and classified moderate or above to implement Reasonably Available Control Technology (RACT) for sources subject to Control Techniques Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) for “major sources” of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) which are ozone precursors. The District adopted the *2015 8-Hour Reasonably Available Control Technology – State Implementation Plan Analysis (RACT SIP Analysis)* in February, 2015 which committed to amending Rule 461 – *Gasoline Transfer and Dispensing*, Rule 462- *Organic Liquid Loading* and Rule 463 – *Storage of Organic Liquids* to current Federal RACT.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #15

PAGE 2

District Rule 461- *Gasoline Transfer and Dispensing*, and Rule 462 – *Organic Liquid Loading* was last amended on May 25, 1994, Rule 463 – *Storage of Organic Liquids* was last amended on November 2, 1992, and all three rules were approved as RACT into the SIP in 1995. (60 FR 21702, 05/03/1995). Previous versions of these rules addressed requirements outlined in the applicable CTG's published in the 1970s: Design Criteria for Stage I Vapor Control Systems – Gasoline Stations (EPA-450/R-75-102 November 1975), Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (EPA-450/2-77-026 October 1977), Control of Volatile Organic Emissions from Bulk Gasoline Plants (EPA-450/2-77-035 December 1977), Control of Volatile Organic Emissions from Bulk Gasoline Plants (EPA-450/2-77-035 December 1977), Control of Volatile Organic Emission from Storage of Petroleum Liquids in Fixed-Roof Tanks (EPA-450/2-77-036 December 1977), Control of Volatile Organic Emission from Petroleum Liquid Storage in External Floating Roof Tanks (EPA-450/2-78-047 December 1978) and Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems (EPA-450/2-78-051 December 1978).

The proposed amendments are based on the Control Technology Guidelines (CTGs), and various district rules deemed as fulfilling Reasonably Available Control Technology (RACT) requirements, including but not limited to: Antelope Valley Air Quality Management District (AVAQMD) Rule 461 – *Gasoline Transfer and Dispensing* (76 FR 5277, 01/31/2001), AVAQMD Rule 462 – *Organic Liquid Loading* (62 FR 60784, 11/13/1997), AVAQMD Rule 463 – *Storage of Organic Liquids* (61 FR 54941, 10/23/1996); Placer County Air Pollution Control District (PCAPCD) Rule 212 – *Storage of Organic Liquids* (74 FR 27714, 06/11/2009), PCAPCD Rule 213 – *Gasoline Transfer in Stationary Storage Containers* (80 FR 7345, 02/10/2015); South Coast Air Quality Management District (SCAQMD) Rule 461 – *Gasoline Transfer and Dispensing* (78 FR 21543, 04/11/2013), SCAQMD Rule 462 – *Organic Liquid Loading* (64 FR 39037, 07/21/1999), SCAQMD Rule 463 – *Storage of Organic Liquids* (78 FR 18854, 11/04/2011); and Yolo-Solano Air Quality Management District (YSAQMD) Rule 2.21 – *Organic Liquid Storage and Transfer* (71 FR 63694, 10/31/2006), YSAQMD Rule 2.22 – *Gasoline Dispensing Facilities* (81 FR 6763, 02/09/2016).

The proposed amendments to Rules 461, 462 and 463 address the *RACT SIP Analysis* commitments. All of the proposed amendments update rule definitions, rule clarity. Specifically the proposed amendments in Rule 461 would update mobile fueler requirements, CARB certified equipment requirements, spill box installation requirement, Phase II vapor recovery capacity and emission factor, self-inspection and record keeping requirements, updated performance testing and re-verification requirements, added an exemption for ORVR (onboard refueling vapor recovery fleets, and updated required signage at gasoline dispensing facilities. The proposed amendments to Rule 462 would update CARB certified equipment requirements, imposing a reduced emission requirement for class A facilities, updated loading requirements, Class B facilities would require a vapor recovery system, submerged fill loading and a pressure/vent valve. Self-inspection, record keeping and test methods have also been updated. The proposed

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #15

PAGE 3

amendments to Rule 463 would update rule applicability, reduce the allowed vapor pressure of organic liquid storage tanks greater than 39,630 gallons and update self-inspection, maintenance and record keeping.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the amendments of Rules 461, 462 and 463 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, Deputy District Counsel as to legal form and by Alan De Salvio, Deputy Director – Mojave Desert Operations on or about October 3, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the amendment of Rule 1115 – Metal Parts & Products Coating Operations and continue public hearing to January 22, 2018. Presenter: Alan De Salvio.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #16

DATE: October 23, 2017

RECOMMENDATION: Conduct a public hearing to consider the amendment of Rule 1115 - *Metal Parts & Products Coating Operations* and continue public hearing to January 22, 2018.

SUMMARY: Rule 1115 is proposed for amendment to satisfy 42 U.S.C. §§7511a (Federal Clean Air Act (FCAA) §182) which requires that ozone non-attainment areas implement Reasonably Available Control Technology (RACT) for sources that are subject to Control Techniques Guidelines (CTG) and for major sources of ozone precursors. Additionally, the District is amending this rule to satisfy a prior commitment to implement the provisions of H&S Code §39614(d) (expired by its own terms on January 1, 2011) which required the adoption of readily available, feasible and cost-effective control measures for Particulate Matter from a list of potential local control measures promulgated by the California Air Resources Board (CARB). Continuation is requested due to receipt of substantial comment regarding Rule enforcement from industry.

CONFLICT OF INTEREST: None

BACKGROUND: The Federal Clean Air Act (FCAA) requires areas designated non-attainment and classified moderate and above to implement Reasonably Available Control Technology (RACT) for sources subject to Control Techniques Guidelines (CTG) documents issued by United States Environmental Protection Agency (USEPA) for “major sources” of Volatile Organic Compounds (VOCs) and oxides of nitrogen (NO_x) which are ozone precursors. The District adopted the *2015 8-Hour Reasonably Available Control Technology – State Implementation Plan Analysis (RACT SIP Analysis)* in February, 2015 which committed to amending Rule 1115 – *Metal Parts & Products Coating Operations* to current Federal RACT. The MDAQMD has a metal parts and products coating operations rule which was amended April 22, 1996 and approved as RACT into the SIP in 1997 (62 FR 67002, 12/23/1997). This rule is subject to the CTG titled *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings* (EPA-453/R-08-003, September 2008), the CTG titled *Control of Volatile*

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #16

PAGE 2

Organic Emissions From Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products (EPA-450/2-78-015, June 1978), and the CTG titled *Control Techniques Guidelines: Industrial Cleaning Solvents* (EPA 453/R-06-001, September 2006). There are also two metal coating CTGs titled *Control Techniques Guidelines for Large Appliance Coatings* (EPA 453/R-07-004, September 2007) and *Control Techniques Guidelines for Metal Furniture Coatings* (EPA 453/R-07-005, September 2007) for which the District has file Federal Negative Declarations (February 23, 2015).

Additionally the provisions of Health & Safety Code (H&S Code) §39614(d) required the adoption of certain control measures for Particulate Matter (PM) from a list promulgated by CARB. Former H&S Code §39614(d) (expired by its own terms on January 1, 2011) required the adoption of the most readily available, feasible and cost-effective local control measures for PM as contained on a list developed by CARB. Furthermore, this list required the adoption of Reasonably Available Control Measures (RACT) for PM. The proposed amendments to Rule 1115 satisfy both of these requirements.

The District has several facilities that primarily coat metal parts and products and some additional facilities that coat metal parts and products as part of their operations. There are no facilities that meet the specific applicability threshold of the *CTG for Miscellaneous Metal and Plastic Parts*, but there are major facilities that coat metal parts and products. The MDAQMD is proposing to update Rule 1115 – *Miscellaneous Metal Parts & Products Coating Operations* to reflect current federal RACT.

The proposed amendments to Rule 1115 address the *RACT SIP Analysis* and H&S Code §39614(d) commitments. The proposed amendments update rule definitions; transfer efficiency requirements; coating limits; control device efficiency; work practices; VOC content for strippers and surface preparation materials; test methods; and, record retention requirements. A prohibition of sale requirement has been reinserted in the rule as suggested in the August 1997 Technical Support Document for EPA's Notice of Direct Final Rulemaking for Rule 1115 (62 FR 67002, 12/23/1997). The proposed amendments are based on the CTGs, and various other district rules deemed as fulfilling RACT requirements, including but not limited to: South Coast Air Quality Management District Rule 1107 – *Coating of Metal Parts and Products*, amended 01/06/2006 (73 FR 70883, 11/24/2008); Placer County Air Pollution Control District Rule 245 – *Surface Coating of Metal Parts and Products*, amended 08/20/2009 (76 FR 30025, 5/24/2011); and, San Joaquin Valley Unified Air Pollution Control District Rule 4603 – *Surface Coating of Metal Parts and Products, Plastic Parts and Products, and Pleasure Crafts*, amended 09/17/2009 (76 FR 67369, 11/01/2011).

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #16

PAGE 3

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the amendment of Rule 1115 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulation. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Alan De Salvio, Deputy Director – Mojave Desert Operations on or about October 9, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider amendments to proposed Rule 1160 – Internal Combustion Engines and continue public hearing to January 22, 2018. Presenter: Alan De Salvio.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #17

DATE: October 23, 2017

RECOMMENDATION: Conduct a public hearing to consider amendments to proposed Rule 1160 – *Internal Combustion Engines* and continue public hearing to January 22, 2018.

SUMMARY: This item opens and continues the mandatory public hearing for the amendment of Rule 1160 – *Internal Combustion Engines*. The hearing will be continued due to address substantial, informal comments received from the industry. Rule 1160 is proposed for amendment to satisfy federal Reasonably Available Control Technology (RACT) requirements and prior commitments for the adoption of reasonable and cost effective Particulate Matter (PM) measures for the Internal Combustion Engine source category.

CONFLICT OF INTEREST: None.

BACKGROUND: Rule 1160 – *Internal Combustion Engines*, was originally adopted on December 20, 1993 to comply with the FCAA Oxides of Nitrogen (NO_x) RACT State Implementation Plan (SIP) requirements (42 U.S.C. §§7511a (FCAA §182(b)(2) and 182(f)). Rule 1160 was then amended on October 26, 1994 to provide reductions of Volatile Organic Compound (VOC) emissions to implement the District’s Federal Rate-of-Progress Plan (ROP). The October 26, 1994 rule version was approved as part of the SIP on November 1, 1996 and is the current rule version in the SIP (40 CFR 52.220(c)(207)(i)(D)(3) – 11/01/96 61 FR 56470).

Rule 1160 regulates NO_x, VOC, and Carbon Monoxide (CO) emissions associated with Internal Combustion Engines located within the Federal Ozone Non-attainment Area (FONA) that are greater than 500 brake horsepower. The FCAA requires areas designated non-attainment and classified moderate and above to implement RACT for sources subject to CTG documents issued by United States Environmental Protection Agency (USEPA), and for “major sources” of VOCs and NO_x which are ozone precursors. The District adopted the *8-Hour Reasonably Available Control Technology – State Implementation Analysis (RACT SIP Analysis)* in February, 2015 for the 2008 75 ppb ozone National Ambient Air Quality Standards (NAAQS). This document committed to amending current RACT for internal combustion engines.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #17

PAGE 2

While there are no CTGs that apply to the Internal Combustion Engine source category, there are major sources of VOCs and NO_x subject to this rule within the MDAQMD; therefore, the proposed amendment updates Rule 1160 to satisfy these RACT requirements. Additionally, while there are no CTGs applicable to the source category of Internal Combustion Engines, USEPA has an applicable Alternative Control Technology (ACT) document, namely, *NO_x Emissions from Stationary Internal Combustion Engines* (EPA-453/R-93-032, updated September 2000). While CTGs are used to presumptively define RACT, ACTs describe available control technologies and their respective cost effectiveness; therefore, this ACT was assessed as part of the District's RACT review.

Former H&S Code §39614(d) (expired by its own terms on January 1, 2011) required the adoption of the most readily available, feasible and cost-effective local control measures for PM as contained on a list developed by the CARB. In addition, this document required the adoption of Reasonably Available Control Measures (RACM) for PM. The proposed amendments to Rule 1160 fulfill the MDAQMD's commitment to this requirement.

The proposed amendment of Rule 1160 updates NO_x RACT for the Internal Combustion Engine source category, by lowering the NO_x limit from 140 ppmv to 125 ppmv for Spark-Ignited, Lean Burn Engines; and, from 700 ppmv to 80 ppmv for Compression-Ignited Engines. Additionally, the proposed amendments clarify exemptions, including emergency engines, portable engines, and engines operated on an engine test stand. The proposed amendments also update the Alternative Compliance Strategies which incorporate the USEPA's Economic Incentive Programs Guidance (EPA-452/R-01-001) requiring a ten percent additional reduction and subjection to penalty provisions for facilities that use Aggregate Emissions to comply with the NO_x Emission Reduction Alternative. Monitoring and Recordkeeping Requirements are also updated. An updated Compliance Schedule is also proposed since the dates of the previous schedule have since passed.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the Amendment of Rule 1160 pursuant to the requirements of CEQA.

REASON FOR RECOMMENDATION: Health & Safety Code §§40702 and 40703 require the Governing Board to hold a public hearing before adopting rules and regulations. Also, 42 U.S.C. §7410(l) (FCAA §110(l)) requires that all SIP revisions be adopted after public notice and hearing.

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #17

PAGE 3

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Alan De Salvio, Deputy Director – Mojave Desert Operations on or before October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations

The following page(s) contain the backup material for Agenda Item: [Receive and file a presentation from the Engineering Section describing the work and responsibilities associated with engineering activities. Presenter: Sheri Haggard.](#)

**MINUTES OF THE GOVERNING BOARD
OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
VICTORVILLE, CALIFORNIA**

AGENDA ITEM #18

DATE: October 23, 2017

RECOMMENDATION: Receive and file a presentation from the Engineering Section describing the work and responsibilities associated with engineering activities.

SUMMARY: This is a staff presentation from the Engineering Section describing the work and responsibilities associated with engineering activities.

CONFLICT OF INTEREST: None

BACKGROUND: On occasion District staff may present to the Governing Board information about the District's functions and responsibilities. These presentations are intended to expand the knowledge base for Governing Board members about the responsibilities of the regulatory activities associated with the District's mission.

REASON FOR RECOMMENDATION: This is a presentation to receive and file.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Alan De Salvio, Deputy Director – MD Operations, on or about October 10, 2017.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Sheri Haggard, Engineering Supervisor

The following page(s) contain the backup material for Agenda Item: [Reports: Executive Director](#)



Community Relations & Education

District Activity Report

OCTOBER 2017

District Sponsors Veterans Corridor Kick-Off on October 12

A Kick Off event for the largest Veterans Memorial in the United States was held on October 12 from 10:00AM to 2:00PM along Barstow's Main Street. The Route 66 Veterans Memorial Corridor is a multi-year tree planting project which honors veterans along 400 miles of iconic Route 66 in San Bernardino County, from Upland to Needles. The MDAQMD is proud to sponsor the project through its newly created "Clean Air Fund," which provides grants for projects that positively impact air quality in the local community. A sponsorship check was presented during the kickoff event by MDAQMD Executive Director Brad Poiriez and Governing Board Members Carmen Hernandez and Barbara Riordan. The District also hosted an outreach booth during the event.

When completed, the project will provide improvement, revitalization and maintenance of the Route 66 Urban Forest; education about climate change at kiosks, and pocket parks along the route, while also providing a living tribute to veterans in San Bernardino County. The project is funded through the California Climate Investments program, a statewide program which puts billions of cap-and-trade dollars to work in local communities.

MDAQMD Partnership with GHHS to Provide Students Real-Life Career Experience

The District has joined forces with Granite Hills High School/Apple Valley's one-of-a-kind Supervisory Control and Data Acquisition (SCADA) program to provide high school students with internships aimed at providing them with exposure to real-life career opportunities in their own communities. On September 20, the MDAQMD's first two SCADA interns and their teacher advisor spent their first day "on the job" undergoing a safety briefing, conducting a pre-inspection review, studying inspections forms and shadowing a district inspector, before performing and documenting a gasoline dispenser inspection, under the oversight of District staff. In the near future, the interns will also be touring regulated facilities, analyzing air quality regulations and witnessing source tests.

Youth Environmental Leadership Conference to Spotlight Maker Movement on October 28

"MAKE the Environment Rock" is the theme of the 2017 Youth Environmental Leadership Conference, an annual STEM focused event designed to introduce students and educators to environmental careers and encourage them to undertake environmental service learning projects that improve their communities and schools. This year's event – sponsored by MEEC and the MDAQMD – will introduce participants to the "Maker Movement." The Maker Movement or Maker Education is the next step in STEM education which empowers students to create, innovate, tinker and turn their ideas and solutions into reality. Participating student teams and their teacher/advisors will learn to incorporate Maker Ed into their environmental STEM Service Learning projects and bring it into the classroom. More than 30 student teams from schools located throughout the High Desert have registered to attend this year's conference which will feature workshops on Robotics, Wind Energy and Maker Ed. Students will also experience hands-on demos featuring air quality, water pollution and solar race cars. For more information visit www.meeconline.

Outreach Update

On October 6, Engineering and Planning staffers participated in Vanguard Preparatory School/Apple Valley's annual Middle School Career Day event. During a series of 30 minute sessions, Roseana Navarro Brasington and Michelle Zumwalt engaged groups of 6-8th grade students in interactive presentations showcasing a day in the life of an Air Quality engineer and planner.

On September 22, MEEC Program Specialist Samantha Murray and Compliance Supervisor Sarah Strout demonstrated the impacts of air pollution to more than 200 students during Eucalyptus Elementary/Hesperia's first Environmental Science Day. Using food coloring, clear plastic cups and water, staff led the students in discovering the potent effects of everyday sources on air quality.

For more information on activities/projects listed above, contact the MDAQMD's Community Relations & Education Office at (760) 245-1661, ext. 6104.