

# **Mojave Desert Air Quality Management District Governing Board Meeting**

## **Agenda**

### LOCATION

**MOJAVE DESERT AQMD BOARD CHAMBERS  
14306 PARK AVENUE  
MONDAY, JUNE 27, 2016  
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# 11 Public Agency Retirement System (PARS), its Directors and Officers; Governing Board members and officers of the MDAQMD.

**CONSENT CALENDAR**

1. [Approve Minutes from Regular Governing Board Meeting of May 23, 2016.](#)
2. [Approve Minutes from Governing Board Meeting of June 16, 2016.](#)
3. [Receive and File: Finance Report and Budget Performance. Presenter: Jean Bracy](#)
4. [Receive and File: Information addressing Governing Board discussion April 25, 2016 with regard to the OPEB Actuarial Report, the Retiree Health Benefit, and cost recovery for contracted staff benefits. Presenter: Jean Bracy](#)
5. [Receive and File: The Legislative Report for June 7, 2016. Presenter: Eldon Heaston](#)

**ITEMS FOR DISCUSSION**

6. DEFERRED ITEMS.
7. PUBLIC COMMENT.
8. [Conduct a Continued Public Hearing to receive comments and staff presentation for the proposed MDAQMD Budget for FY 2016-17: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2016-17. Presenter: Jean Bracy](#)
9. [Conduct a continued public hearing to consider the amendment of Regulation III – Fees: 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 the Regulation and directing staff actions. Presenter: Alan De Salvio](#)
10. [Conduct a public hearing to consider the amendment of Regulation XIII – New Source Review \(specifically Rules 1300 – General, 1302 – Procedure and 1320 – New Source Review for Toxic Air Contaminants\) and adoption of Rule 1600 –](#)

Prevention of Significant Deterioration: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Continue hearing to July 25, 2016. Presenter: Alan De Salvio

11. Adopt a Resolution to authorize the District to participate in the Public Agencies Post-Employment Benefits Trust administered by Public Agency Retirement System (PARS); Authorize a deposit up to \$1,000,000; Appoint the Executive Director/APCO as the Plan Administrator; and Authorize the Executive Director/APCO to execute the documents to implement the program. Presenter: Jean Bracy
12. Reports: Executive Director
13. Board Members Comments and Suggestions for future agenda items.

### **CLOSED SESSION**

14. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to Government Code Section 54956.9(b): (2 Cases)
15. CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6). Agency Designated Representatives: Eldon Heaston. Employee Organization: SBPEA, Teamsters Local 1932.

### **OPEN SESSION**

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

*In compliance with the Americans with Disabilities act, if special assistance is needed to participate in the Board Meeting, please contact Deanna Hernandez, Executive Lead, 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](mailto:dhernandez@mdaqmd.ca.gov) .

**Mailed & Posted on: Thursday, June 16, 2016**

Approved:

\_\_\_\_\_  
Deanna Hernandez, Executive Lead

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
REGULAR GOVERNING BOARD MEETING  
MONDAY, MAY 23, 2016 - 10:00 A.M.  
BOARD CHAMBERS, MDAQMD OFFICES  
VICTORVILLE, CA**

MINUTES

Board Members Present:

Robert Lovingood, Chair, San Bernardino County  
Jim Cox, Vice-Chair, City of Victorville  
Barb Stanton, Town of Apple Valley  
Merrill Gracey (Alternate), City of Barstow  
Barbara Riordan, Public Member  
Joseph “Joey” DeConinck, City of Blythe  
Robert Leone, Town of Yucca Valley  
Ed Camargo, City of Adelanto  
John Cole, City of Twentynine Palms  
John J. Benoit, Riverside County

Board Members Absent:

James Ramos, San Bernardino County  
Paul Russ, City of Hesperia  
Jeff Williams, City of Needles

**CALL TO ORDER**

Chair **ROBERT LOVINGOOD** called the meeting to order at 10:00 a.m. and asked Board Member **BARB STANTON** to lead the Pledge of Allegiance.

Chair **ROBERT LOVINGOOD** asked the Clerk to call roll; roll was called.

**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 **BARBARA RIORDAN**, and carried by unanimous roll call vote, as follows:

Agenda Item 1 – Approve Minutes from Regular Governing Board Meeting of April 25, 2016.  
**Approved** the minutes from the Regular Governing Board meeting of April 25, 2016.

Agenda Item 2 – Set date of June 27, 2016 to conduct a Public Hearing to consider the amendment of Regulation XIII – New Source Review and adoption of Rule 1600 – Prevention of Significant Deterioration and approval of California Environmental Quality Act (CEQA) documentation.

**Agenda Item #1**

**Set the date of June 27, 2016** to conduct a Public Hearing to consider the amendment of Regulation XIII – New Source Review and adoption of Rule 1600 – Prevention of Significant Deterioration and approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 3 – Adopt the Investment Guidelines Document for the Mojave Desert Air Quality Management District Other Post-Employment Benefits Trust (OPEB), April 2016, and authorize the Executive Director, or designee, to execute the document, subject to review by Special Counsel to the Governing Board.

**Adopted** the Investment Guidelines Document for the Mojave Desert Air Quality Management District Other Post-Employment Benefits Trust (OPEB), April 2016, and **authorized** the Executive Director, or designee, to execute the document, subject to review by Special Counsel to the Governing Board.

Agenda Item 4 – Adopt Policy 16-01 Technical Advisory Committee (TAC).

**Adopted** Policy 16-01 Technical Advisory Committee (TAC).

Agenda Item 5 – Receive and File: Finance Report and Budget Performance.

**Received and Filed:** Finance Report and Budget Performance through March 2016.

Agenda Item 6 – Receive and File: The Legislative Report for May 5, 2016.

**Received and Filed:** The Legislative Report for May 5, 2016.

Agenda Item 7 – DEFERRED ITEMS:

None.

Agenda Item 8 – PUBLIC COMMENT.

Fred Lowe, Teamsters Local 1932, expressed the opinion of the Teamsters about the current state of the District regarding: management relations; staffing; budget and reserves; and conduct of recently commenced negotiations.

Agenda Item 9 – Conduct a Public Hearing to receive comments and staff presentation for the proposed MDAQMD Budget for FY 2016-17: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing and continue item to the Governing Board meeting of June 27, 2016 for adoption.

Vice Chair **JIM COX** opened the public hearing. Staff member Jean Bracy provided a power point presentation and answered questions from Board Members. Vice Chair **JIM COX** solicited public comment, being none, Vice Chair **JIM COX** closed the public hearing. Item continued to the Governing Board meeting of June 27, 2016 for adoption.

Agenda Item 10 – Conduct a Public Hearing to consider the amendment of Regulation III Fees: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Continue public Hearing to June 27, 2016.

Vice Chair **JIM COX** opened the public hearing. Staff member Alan DeSalvio provided a power point presentation and answered questions from Board Members. Vice Chair **JIM COX** solicited public comment, being none, Vice Chair **JIM COX** closed the public hearing. Item continued to the Governing Board meeting of June 27, 2016 for adoption.

Agenda Item 11 – Conduct a Public Hearing to consider the amendment of Rule 219 – Equipment Not Requiring a Permit: 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 the rule and directing staff actions.

Staff member Alan DeSalvio provided a power point presentation and staff recommendation. Vice Chair **JIM COX** opened the public hearing. Staff member Alan DeSalvio answered questions from Board Members. Vice Chair **JIM COX** solicited public comment, being none, Vice Chair **JIM COX** closed the public hearing. Upon motion by Board Member **BARBARA RIORDAN**, Seconded by Board Member **ROBERT LEONE**, and carried by unanimous roll call vote, the Board amended Rule 219, directed staff actions and adopted **Resolution 16-01**, titled, **“A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 219- EQUIPMENT NOT REQUIRING A PERMIT AND DIRECTING STAFF ACTIONS.”**

Agenda Item 12 – Reports:

Executive Director Eldon Heaston updated the Board on their interest to review policies on a regularly basis. Staff has started to work on this subject as this will be pertinent and especially useful with the new APCO. Mr. Heaston noted that labor negotiation will be an opportunity to see some of the policies as these negotiated policies will need to be approved.

Mr. Heaston updated the Board on Other Post-Employment Benefits (OPEB). Staff is working on this subject and is developing a report for the Board in the near future.

Mr. Heaston announced that CDAWG is scheduled for November 15 & 16 at the Orleans Resort and Casino in Las Vegas, Nevada.

Mr. Heaston announced that the Solar Cook Off held on May 14 was a great success. Thirteen teams of students from local schools showed off their “zero emission” culinary skills during the 4<sup>th</sup> Annual Solar Oven Cook Off on Saturday, May 14 at the San Bernardino County Museum in Apple Valley. The daylong event – sponsored by the MDAQMD and MEEC, in association with San Bernardino County’s Office of the First District – challenged students to design and build solar cookers and use them to prepare mouthwatering dishes. Over \$2,000 in prize money was awarded to winning teams in three age groups in the categories of “Best Solar Oven Design” and “Top Recipe.”

Mr. Heaston congratulated Violette Roberts as Air & Waste Management Association (A&WMA), and it’s Education Council, recipient of its “2016 Exceptional Education Contributor” award in recognition of her commitment to educating students, other members of

**Agenda Item #1**

A&WMA, and the community about air quality. The Award will be presented at AWMA's *109th Annual Conference & Exhibition*, to be held in New Orleans, Louisiana on Wednesday, June 22th.

Agenda Item 13 - Board Member Comments and Suggestions for Future Agenda Items.

Board Member Barb Stanton complimented staff for their efforts in the poster contest and thanked staff for the invite.

Board Member Robert Leone announced that Yucca Valley is reinstating their Rodeo and will be having Grub Steaks next week.

**CLOSED SESSION**

Upon Motion by Board Member **BARBARA RIORDAN**, Seconded by Board Member **BARB STANTON** and carried by unanimous roll call vote, the Board adjourned to Closed Session at 10:07 a.m.

Agenda Item 14 - CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code Section 54956.9 (b): (1 Case).

Agenda Item 15 – CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6). Agency Designated Representatives: Eldon Heaston. Employee Organization: SBPEA, Teamsters Local 1932.

Agenda Item 16 – PUBLIC EMPLOYMENT - (Government Code Section 54957). Position to be filled: Executive Director/Air Pollution Control Officer.

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 11:24 a.m.**, and Chair **ROBERT LOVINGOOD** stated that the Board met in Closed Session on Items #14, 15 and 16 and there was no reportable action.

Being no further business, Vice-Chair **JIM COX** adjourned the meeting at **12:02 p.m.** to the next Regular Meeting of **June 27, 2016**.

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
GOVERNING BOARD MEETING  
THURSDAY, JUNE 16, 2016 - 11:00 A.M.  
BOARD CHAMBERS, MDAQMD OFFICES  
VICTORVILLE, CA**

MINUTES

Board Members Present:

Robert Lovingood, Chair, San Bernardino County  
Jim Cox, Vice-Chair, City of Victorville  
Barb Stanton, Town of Apple Valley  
Barbara Riordan, Public Member  
Joseph “Joey” DeConinck, City of Blythe  
Robert Leone, Town of Yucca Valley  
Paul Russ, City of Hesperia  
Jeff Williams, City of Needles  
John Cole, City of Twentynine Palms

Board Members Absent:

James Ramos, San Bernardino County  
Ed Camargo, City of Adelanto  
John J. Benoit, Riverside County  
Carmen Hernandez, City of Barstow

**CALL TO ORDER**

Chair **ROBERT LOVINGOOD** called the meeting to order at 11:01 a.m.

Chair **ROBERT LOVINGOOD** asked the Clerk to call roll; roll was called.

Chair **ROBERT LOVINGOOD** asked Board Member **BARB STANTON** to lead the Pledge of Allegiance.

**CONSENT CALENDAR** - None

**CLOSED SESSION**

Upon Motion by Board Member **BARB STANTON**, Seconded by Board Member **BARBARA RIORDAN** and carried by unanimous roll call vote, the Board adjourned to Closed Session at 11:04 a.m.

Agenda Item 1 – PUBLIC EMPLOYMENT - (Government Code Section 54957). Position to be filled: Executive Director/Air Pollution Control Officer.

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 12:09 p.m.** Chair **ROBERT LOVINGOOD** stated for the record that the Board met in Closed Session on Item #1 and reported as follows: the Board discussed the employment contract and appointment of Mr. Brad Poiriez as Air Pollution Control Officer of Mojave Desert Air Quality Management District.

**ITEMS FOR DISCUSSION**

Agenda Item 2 – Approve contract and appoint Brad Poiriez Executive Director/Air Pollution Control Officer of the Mojave Desert Air Quality Management District.

Upon motion by Board Member **BARB STANTON**, Seconded by Board Member **ROBERT LEONE**, and carried, Board Members **RUSS** and **WILLIAMS** abstaining, the Board **approved** the contract and **appointed** Brad Poiriez Executive Director/Air Pollution Control Officer of the Mojave Desert Air Quality Management District.

Agenda Item 8 – PUBLIC COMMENT.

None

Agenda Item 4 – Board Members comments and suggestions for future agenda items.

None

Being no further business, Chair **ROBERT LOVINGOOD** adjourned the meeting at **12:13 p.m.** to the next Regular Meeting of **June 27, 2016**.

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

**AGENDA ITEM 3**

**DATE:** June 27, 2016

**RECOMMENDATION:** Receive and file.

**SUMMARY:** Receive and file the Financial Report which is provided for financial information and budget performance concerning the fiscal status of the District.

**CONFLICT OF INTEREST:** None

**BACKGROUND:** The Financial Report provides financial information and budget performance concerning the fiscal status of the District. The included reports reflect the business activities of the District for the period referenced. The target variance for April is 83% of Fiscal Year 2016.

The April financial statements (most recent available) indicate that the financial position for the District remains strong with sufficient funds available to execute the budget as adopted. Fiscal Year 16 Program Revenue from AB2766 will be received through September 2016, which explains the 67% received to date. Overall, revenue received to the end of the referenced period is 79% of the budget expectations. Expenditures in the General Fund continue under budget (77%) and Personnel Expenses (81%) are below budget as one position remains budgeted but unfilled. The Fiscal Year 16 Budget anticipates the use of the unassigned fund balance if executed as adopted.

At this time there is nothing out of the ordinary to report, Finance Reports are attached.

**REASON FOR RECOMMENDATION:** 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 – Mojave Desert Operations on or before May 9, 2016.

**FINANCIAL DATA:** No change in appropriation is required at this time.

**PRESENTER:** Jean Bracy, Deputy Director / Administration

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

**FINANCE REPORT**

*AGENDA ITEM 3*

**PAGE 2**

**BALANCE SHEET – GOVERNMENTAL FUNDS** – This report is the District’s financial picture (a “snapshot”) as of the date of report including all funds. “Mobile Emissions” and “Carl Moyer” are totally restricted funds. The “Fiduciary Fund” is the District’s OPEB (Other Post-Employment Benefits) Fund which is held in an irrevocable trust with PARS (Public Agency Retirement Services).

**STATEMENT OF REVENUES & EXPENDITURES** – This report describes the financial activities for each of the District’s funds during the month indicated.

**STATEMENT OF ACTIVITY** – This report reflects the revenues received and expenses made all funds for the each month closed and the year to date against the adopted budget for FY 16. The line items “Program” and “Program Costs” refer to the revenue and those payments made from the District’s grant funds (AB 2766 and Carl Moyer Fund).

**CHECK REGISTERS** – These reports list payments made for goods and services and fund transfers for the following District accounts since the last report to the Board:

**WELLS FARGO OPERATING** – This report lists the payments made from the District’s primary operating account deposited at Wells Fargo Bank. The District issues payments to vendors in-house. Periodically the account is reimbursed from the funds on deposit with the San Bernardino County Auditor/Controller. References to “Credit Card Transaction” indicate Visa payments received via a third party contractor for invoices usually relating to permit application or annual renewal fees. The reports now reflect check amounts for those payments made via electronic fund transfers.

**GENERAL FUND MPA (San Bernardino County)** – This account is held by the San Bernardino County Treasurer who is the custodian of District funds. Requests for reimbursement to the District’s other accounts are made through the San Bernardino County Audit/Controller who is appointed the District’s accounting officer, as set forth in the Health & Safety Code (§41245 and §41246).

**AB2766 MPE (San Bernardino County)** - This report lists the activity and payments made from the District’s Grant Fund Account held in trust at the San Bernardino County. The items on these lists are included on the Statement of Activity as “Program Costs.”

**CARL MOYER MPB (San Bernardino County)** - This report lists the activity and payments made from the District’s Grant Fund Account held in trust at San Bernardino County. The items on these lists are included on the Statement of Activity as “Program Costs.”

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

**FINANCE REPORT**

*AGENDA ITEM 3*

**PAGE 3**

PARS Held in Trust – This reports the activity related to the District’s Other Post Employment Benefit trust.

BANK REGISTERS – DISTRICT CARDS – These reports show the purchases made using the District’s Mastercards. The items on these lists are the expenditure detail for the payments made to BUSINESS CARD as shown on the Check Register Wells Fargo Operating Account.

**Mojave Desert AQMD**  
**Balance Sheet - Governmental Funds**  
**As of April 30, 2016**

## Financial Report

	<u>General Fund</u>	<u>Mobile Emissions</u>	<u>Carl Moyer</u>	<u>Fiduciary Fund</u>	<u>Total</u>
<b>Assets</b>					
Current Assets					
Cash	1,882,151.59	2,987,146.94	549,592.65	555,535.19	5,974,426.37
Cash Held For Other Fund	184,689.88	(8,568.07)	(158,945.47)	(17,176.34)	0.00
Receivables	1,078,597.10	0.00	1,012,058.00	0.00	2,090,655.10
Pre-Paid	24,054.23	0.00	0.00	0.00	24,054.23
<b>Total Current Assets</b>	<b>3,169,492.80</b>	<b>2,978,578.87</b>	<b>1,402,705.18</b>	<b>538,358.85</b>	<b>8,089,135.70</b>
Long Term Receivables	820,800.76	0.00	0.00	0.00	820,800.76
<b>Total Assets</b>	<b>3,990,293.56</b>	<b>2,978,578.87</b>	<b>1,402,705.18</b>	<b>538,358.85</b>	<b>8,909,936.46</b>
<b>Liabilities and Net Position</b>					
Current Liabilities					
Payables	240,981.31	63,558.68	0.00	0.00	304,539.99
Accruals	259,222.17	0.00	0.00	0.00	259,222.17
Due to Others	13,567.00	(0.04)	0.00	0.00	13,566.96
Payroll Taxes Liability	4,354.71	0.00	0.00	0.00	4,354.71
Retirement	(6,758.63)	0.00	0.00	0.00	(6,758.63)
Health	(30,607.74)	0.00	0.00	0.00	(30,607.74)
Unearned Revenue	0.00	0.00	1,194,344.72	0.00	1,194,344.72
<b>Total Current Liabilities</b>	<b>480,758.82</b>	<b>63,558.64</b>	<b>1,194,344.72</b>	<b>0.00</b>	<b>1,738,662.18</b>
Restricted Fund Balance	0.00	3,042,907.72	336,060.48	567,408.04	3,946,376.24
Cash Reserves	690,000.00	0.00	0.00	0.00	690,000.00
Building Improvements	200,000.00	0.00	0.00	0.00	200,000.00
Litigation Reserves	300,000.00	0.00	0.00	0.00	300,000.00
Budget Stabilization	250,000.00	0.00	0.00	0.00	250,000.00
Retirement Reserves	1,000,000.00	0.00	0.00	0.00	1,000,000.00
Unassigned Fund Balance	533,517.32	0.00	0.00	0.00	533,517.32
Compensated Absences	150,000.00	0.00	0.00	0.00	150,000.00
Pre Paid	24,054.23	0.00	0.00	0.00	24,054.23
Long Term Receivable Reserves	820,800.76	0.00	0.00	0.00	820,800.76
Change in Net Position	(458,787.57)	(127,887.49)	(127,700.02)	(29,049.19)	(743,424.27)
<b>Total Liabilities &amp; Net Position</b>	<b>3,990,343.56</b>	<b>2,978,578.87</b>	<b>1,402,705.18</b>	<b>538,358.85</b>	<b>8,909,986.46</b>

**Mojave Desert AQMD**  
**Statement of Revenues & Expenditures**  
**For the Period Ending April 30, 2016**

## Financial Report

	<u>General Fund</u>	<u>Mobile Emissions Program</u>	<u>Carl Moyer Program</u>	<u>Fiduciary Fund</u>	<u>Total Governmental Funds</u>
<b>Revenues</b>					
Antelope Valley Air Quality Mngmnt Contract	105,716.47	0.00	0.00	0.00	105,716.47
Other Contracts	0.00	0.00	0.00	0.00	0.00
Application and Permit Fees	320,667.83	0.00	0.00	0.00	320,667.83
AB 2766 and Other Program Revenues	82,174.51	70,322.50	11,025.00	0.00	163,522.01
Fines	6,250.00	0.00	0.00	0.00	6,250.00
Investment Earnings	2,662.55	4,705.00	692.28	5,352.72	13,412.55
Federal and State	1,851.97	0.00	0.00	0.00	1,851.97
Other Revenue	0.00	0.00	0.00	0.00	0.00
<b>Total Revenues</b>	<b>519,323.33</b>	<b>75,027.50</b>	<b>11,717.28</b>	<b>5,352.72</b>	<b>611,420.83</b>
<b>Expenditures</b>					
Salaries and Benefits	636,214.34	0.00	0.00	1,681.98	637,896.32
Services and Supplies	67,611.79	42,423.19	11,964.00	300.00	122,298.98
Contributions to Other Participants	0.00	0.00	0.00	0.00	0.00
Capital Outlay Improvements and Equipment	29,501.28	0.00	0.00	0.00	29,501.28
<b>Total Expenditures</b>	<b>733,327.41</b>	<b>42,423.19</b>	<b>11,964.00</b>	<b>1,981.98</b>	<b>789,696.58</b>
<b>Excess Revenue Over (Under) Expenditures</b>	<b>(214,004.08)</b>	<b>32,604.31</b>	<b>(246.72)</b>	<b>3,370.74</b>	<b>(178,275.75)</b>

**Mojave Desert AQMD**  
**Statement of Activity - All Funds**  
**For the Period Ending April 30, 2016**

## Financial Report

	<u>M-T-D</u> <u>Actual</u>	<u>Y-T-D</u> <u>Actual</u>	<u>Y-T-D</u> <u>Budget</u>	<u>% Budget</u> <u>to Actual</u>
<b>Revenues</b>				
Revenue - Permitting	321,346.40	3,421,089.22	4,240,000.00	80.69
Revenue - Programs	163,522.01	1,175,595.20	2,267,533.00	51.84
Revenue - Application Fees	2,378.00	86,107.29	89,850.00	95.83
Revenue - State	0.00	189,298.43	180,000.00	105.17
Revenue - Federal	1,851.97	107,342.83	131,615.00	81.56
Fines & Penalties	6,250.00	33,200.00	60,000.00	55.33
Interest Earned	13,412.55	18,212.86	55,150.00	33.02
Revenue - Contracts & Unidentified	105,716.47	1,096,484.99	1,314,715.00	83.40
Permit Cancellations	(3,056.57)	(92,791.65)	0.00	0.00
<b>Total Revenues</b>	<b>611,420.83</b>	<b>6,034,539.17</b>	<b>8,338,863.00</b>	<b>72.37</b>
<b>Expenditures</b>				
Office Expenses	12,405.37	168,789.86	206,700.00	81.66
Communications	3,457.99	48,354.56	55,300.00	87.44
Vehicles	5,722.39	55,551.97	79,800.00	69.61
Program Costs	54,897.19	967,857.46	1,529,183.00	63.29
Travel	8,622.33	53,625.95	80,650.00	66.49
Professional Services	11,397.85	160,959.22	245,100.00	65.67
Maintenance & Repairs	14,602.37	69,021.36	53,775.00	128.35
Non-Depreciable Inventory	4,835.93	15,374.44	34,325.00	44.79
Dues & Subscriptions	1,035.03	35,726.93	27,275.00	130.99
Legal	4,798.84	120,704.88	115,700.00	104.33
Miscellaneous Expense	524.90	6,561.96	5,000.00	131.24
Suspense	(1.21)	(9,863.84)	0.00	0.00
Capital Expenditures	29,501.28	245,274.55	280,000.00	87.60
<b>Total Expenditures</b>	<b>151,800.26</b>	<b>1,937,939.30</b>	<b>2,712,808.00</b>	<b>71.44</b>
<b>Salaries &amp; Benefits</b>				
Personnel Expenses	637,896.32	4,840,024.14	5,957,973.00	81.24
<b>Total Salaries &amp; Benefits</b>	<b>637,896.32</b>	<b>4,840,024.14</b>	<b>5,957,973.00</b>	<b>81.24</b>
<b>Excess Revenue Over (Under) Expenditures</b>	<b>(178,275.75)</b>	<b>(743,424.27)</b>	<b>(331,918.00)</b>	<b>223.98</b>

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ACH040416	4/04/2016	[14296] INTERNAL REVENUE SERVICE-PP07/16 - FITW, FICA, Med	17,502.38	0.00	587,968.87
ACH040416	4/04/2016	[10071] BUSINESS CARD-CC Charges March 2016	3,963.33	0.00	584,005.54
ACH040416	4/04/2016	[14296] INTERNAL REVENUE SERVICE-PP07/16 - 3rd Party Med	5.78	0.00	583,999.76
ACH040616	4/06/2016	[10047] COLONIAL INSURANCE-Supplemental Insurance Premiums April 2016	562.74	0.00	583,437.02
0005730	4/06/2016	[00000] Unknown Vendor-	0.00	0.00	583,437.02
0005731	4/06/2016	[00000] Unknown Vendor-	0.00	0.00	583,437.02
0005538	4/07/2016	[10004] AGILAIRE LLC-Direct Poll Driver License for AirVision	2,450.01	0.00	580,987.01
0005539	4/07/2016	[10007] AIR TECH SERVICES-Service Call 3/4/16	225.00	0.00	580,762.01
0005540	4/07/2016	[14290] AMERICAN LUNG ASSOCIATION CA-Sponsorship - 2016 ALA Lung Force Walk - 11/6/16	2,500.00	0.00	578,262.01
0005541	4/07/2016	[14217] BRET BANKS-Travel Claim CAPCOA Small & Rural Meeting	47.20	0.00	578,214.81
EFT	4/07/2016	[10017] BEST BEST & KRIEGER LLP-Legal Services - Gen Counsel through 1/31/16	9,569.06	0.00	578,214.81
EFT	4/07/2016	[10017] BEST BEST & KRIEGER LLP-Legal Services - Employee benefits through Jan 31	558.30	0.00	578,214.81
0005542	4/07/2016	[14332] LARRY BOWDEN-Hearing Board Meeting Short Variance -April 4, 2016.	100.00	0.00	578,114.81
0005543	4/07/2016	[10019] BRADCO HIGH DESERT REPORT-Annual ad/article	450.00	0.00	577,664.81
0005544	4/07/2016	[10021] CAL PUBLIC EMP RETIREMENT SYSTEM-Invoices 100000014725270, 2016-02, 2016-05	34,827.49	0.00	542,837.32
0005545	4/07/2016	[14344] CALDWELL KENNEDY & PORTER-Invoices 781, J93130310	2,080.00	0.00	540,757.32
0005546	4/07/2016	[10029] CAPITAL ONE COMMERCIAL-Costco Card charges March 16	227.64	0.00	540,529.68
0005547	4/07/2016	[14346] CARPET CLUB INC-Carpet Squares for Lobby	988.00	0.00	539,541.68
0005548	4/07/2016	[10045] CIVIC CENTER CAR WASH-Vehicle Washes August 15 through Feb 16	111.93	0.00	539,429.75
0005549	4/07/2016	[10052] COSTCO WHOLESALE MEMBERSHIP-Coscto Membershp Renewal May 2016 - April 2017	110.00	0.00	539,319.75
0005550	4/07/2016	[10228] JAMES L COX-Governing Board Ad Hoc Meeting 03/30/2016.	100.00	0.00	539,219.75
0005551	4/07/2016	[10053] CPS HR CONSULTING-Invoices INV351847, INV351902	12,386.10	0.00	526,833.65
EFT	4/07/2016	[10065] ENTERPRISE FLEET MANAGEMENT-Veh Leases and Maintenance March 2016	3,145.99	0.00	526,833.65
0005552	4/07/2016	[10067] ENTERPRISE RENT A CAR-Car rental Feb 2016	172.12	0.00	526,661.53
0005553	4/07/2016	[14286] FORSHOCK-Lab Diagnostcis and Recalibration of humidity and temp control equipment	401.94	0.00	526,259.59
0005554	4/07/2016	[10075] HAWTHORN SUITES HOTEL VICTORVILLE-GB Member Lodging for 1/25/16 GB Meeting	105.93	0.00	526,153.66
0005555	4/07/2016	[10229] CARMEN HERNANDEZ-Governing Board Ad Hoc Meeting 03/30/2016.	137.26	0.00	526,016.40
0005556	4/07/2016	[10088] HI DESERT GARDENS INC-Invoices 2939, 2951, 2966	780.00	0.00	525,236.40
0005557	4/07/2016	[10076] HI DESERT WINDOW WASHING-Window Washing Service March 16	200.00	0.00	525,036.40
0005558	4/07/2016	[10079] HIGH DESERT LASER GRAPHICS-Invoices 780, 792	842.42	0.00	524,193.98
0005559	4/07/2016	[10263] IN SHAPE HEALTH CLUBS INC-Pay Period 07/2016 - GymDed	168.39	0.00	524,025.59
0005560	4/07/2016	[10214] MAIL FINANCE-Postage Meter Rental April 16	167.34	0.00	523,858.25
0005561	4/07/2016	[10094] MOJAVE COPY & PRINTING-Burn Permits	627.78	0.00	523,230.47
0005562	4/07/2016	[10106] PARS-OPEB Trust Admin for Jan 16	300.00	0.00	522,930.47
0005563	4/07/2016	[10244] PAUL'S PRECISION MAINTENANCE-Monthly Maintenance Contract March 16	1,500.00	0.00	521,430.47

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0005564	4/07/2016	[10109] PHELAN PINON HILLS CSD-Electric Use Fee March 2016	160.00	0.00	521,270.47
0005565	4/07/2016	[10114] RAINBOW BUILDING MAINTENANCE-Custodial Service Feb 16	1,948.00	0.00	519,322.47
EFT	4/07/2016	[10116] RECALL SECURE DESTRUCTION SERVICES INC-Doc Shredding Service Feb 16	69.21	0.00	519,322.47
0005566	4/07/2016	[14275] RECALL TOTAL INFORMATION MANAGEMENT-Doc Retention and Storage Feb 16	254.06	0.00	519,068.41
EFT	4/07/2016	[10117] RICOH AMERICAS CORP-Copier Lease 3/15/16 - 4/14/16	1,284.81	0.00	519,068.41
0005567	4/07/2016	[10126] SBCERA-Pay Period 07/2016 - SBCERADefer, SBCERAMatch, SBCERAPickUp, SurvivorInsBen, SurvivorInsDed, RetireCashBen	56,104.23	0.00	462,964.18
0005568	4/07/2016	[10213] SBPEA-Pay Period 07/2016 - GeneralUnitDues	858.32	0.00	462,105.86
0005569	4/07/2016	[10130] SELECT STAFFING-Invoices SL1604296, SL1625173, SL1628217	1,688.73	0.00	460,417.13
EFT	4/07/2016	[10134] SMART & FINAL IRIS COMPANY-Kitchen Supplies	34.49	0.00	460,417.13
0005570	4/07/2016	[14266] SONOMA TECHNOLOGY INC-Professional Services - Prescribed Burn Forecast Analysis	6,700.50	0.00	453,716.63
0005571	4/07/2016	[10136] SOUTHERN CALIF EDISON-Electric Servie March 16	1,750.17	0.00	451,966.46
0005572	4/07/2016	[10137] SOUTHWEST GAS CORP-Invoices SWG0216, SWG0316	289.59	0.00	451,676.87
0005573	4/07/2016	[10144] STANDARD INSURANCE-Invoices 2016-04, 2016-05, SI0416	1,246.40	0.00	450,430.47
0005574	4/07/2016	[10145] STAPLES INC-Office Supplies Orders Feb & March 2016	1,534.62	0.00	448,895.85
0005575	4/07/2016	[10146] STATE DISBURSEMENT UNIT - STATE DISBURSEMENT UNIT-CS Garnishment #BL0059318 - ChildSupport	125.07	0.00	448,770.78
0005576	4/07/2016	[10148] STRATEGIC PARTNERS GROUP - STRATEGIC PARTNERS GROUP-Legislative services March 16	2,000.00	0.00	446,770.78
0005577	4/07/2016	[14245] SARAH STROUT-Inspections in Parker Dam	149.08	0.00	446,621.70
0005578	4/07/2016	[10150] THE COUNSELING TEAM-EAP Hours Feb 16	360.00	0.00	446,261.70
0005579	4/07/2016	[10161] UNITED WAY DESERT COMMUNITIES-Pay Period 07/2016 - UnitedWay	5.00	0.00	446,256.70
0005580	4/07/2016	[10167] VERIZON CALIFORNIA-Phone Services March 2016	720.32	0.00	445,536.38
0005581	4/07/2016	[10167] VERIZON CALIFORNIA - VERIZON-Hesperia AM Station Internet Service March 16	77.99	0.00	445,458.39
EFT	4/07/2016	[10082] VOYA FINANCIAL (457)-Pay Period 07/2016 - 457Ded	8,738.85	0.00	445,458.39
0005582	4/07/2016	[14323] VSP-Invoices 2016-05, 2016-06	642.24	0.00	444,816.15
ACH040716	4/07/2016	[14296] INTERNAL REVENUE SERVICE-Annual Balance Due on Notice	777.54	0.00	420,637.90
ACH040816	4/08/2016	[10064] EMPLOYMENT DEVELOPMENT DEPARTMENT-PP07/16 - SWT	4,563.17	0.00	416,074.73
	4/11/2016	Service Charge	137.47	0.00	415,937.26
EFT	4/13/2016	Pay period ending 4/01/2016	90,605.73	0.00	325,331.53
20130659	4/13/2016	Credit Card Transaction - Pivox	0.00	125.00	325,456.53
2016015	4/13/2016	Op Fund Rep #14	0.00	554,338.38	879,794.91
ACH041416	4/14/2016	[14296] INTERNAL REVENUE SERVICE-PP08/16 - FWIT, FICA, Med	18,747.58	0.00	861,047.33
ACH041416	4/14/2016	[10064] EMPLOYMENT DEVELOPMENT DEPARTMENT-PP08/16 - SWT	4,839.98	0.00	856,207.35
	4/14/2016	[14296] INTERNAL REVENUE SERVICE-PP08/16 - Third Party Sick	26.98	0.00	856,180.37
20130665	4/15/2016	Credit Card Transaction - Beck Mine	0.00	261.00	856,441.37
ACH041516	4/15/2016	[10071] BUSINESS CARD-Credit Card Charges March 2016	7,943.20	0.00	848,498.17
20130665	4/18/2016	Credit Card Transaction - Genesis Solar	0.00	522.00	849,020.17
0005582	4/21/2016	[10007] AIR TECH SERVICES-Invoices 1651, 1682	729.00	0.00	848,291.17

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0005584	4/21/2016	[10008] AMERICAN PHYSICAL SOCIETY-Organizational Dues for Alan De Salvio	149.00	0.00	848,142.17
0005585	4/21/2016	[10013] AT & T-Complaint Line Charges March 16	41.61	0.00	848,100.56
0005586	4/21/2016	[14217] BRET BANKS-Travel Claim - ARB AB32 Grant App Review	24.78	0.00	848,075.78
EFT	4/21/2016	[10017] BEST BEST & KRIEGER LLP-Gen Counsel Services Through March 31, 2016	1,929.84	0.00	848,075.78
0005587	4/21/2016	[10021] CAL PUBLIC EMP RETIREMENT SYSTEM-Invoices 100000014742338, 2016-06, 2016-08	33,736.35	0.00	814,339.43
0005588	4/21/2016	[14352] CALIFORNIA DIAGNOSTIC IMAGING CENTER-APCO Physical	105.25	0.00	814,234.18
0005589	4/21/2016	[10035] CITRUS VAL CARDIOLOGY MED GROUP-APCO Physical	143.27	0.00	814,090.91
0005590	4/21/2016	[14254] LAQUITA COLE-CAPCOA Fiscal Officers Mtg - Meals	54.66	0.00	814,036.25
EFT	4/21/2016	[10065] ENTERPRISE FLEET MANAGEMENT-Lease and Maintenance Charges April 2016	3,671.42	0.00	814,036.25
0005591	4/21/2016	[10067] ENTERPRISE RENT A CAR-CAPCOA Rural District's Meeting.	83.33	0.00	813,952.92
0005592	4/21/2016	[10076] HI DESERT WINDOW WASHING-Window Washing Service April 2016	200.00	0.00	813,752.92
0005593	4/21/2016	[10263] IN SHAPE HEALTH CLUBS INC-Pay Period 08/2016 - GymDed	179.92	0.00	813,573.00
0005594	4/21/2016	[10214] MAIL FINANCE-Postage Meter Rental May 16	167.34	0.00	813,405.66
0005595	4/21/2016	[14351] MAJOR MARKET STATIONS INC-Radio time-lawnmower	300.00	0.00	813,105.66
0005596	4/21/2016	[10091] MASTER'S SERVICES-Brewer, Warmer, and Water Cooler Rental 2nd Qtr 2016	294.52	0.00	812,811.14
0005597	4/21/2016	[10094] MOJAVE COPY & PRINTING-Window Envelopes	418.79	0.00	812,392.35
EFT	4/21/2016	[10200] MOJAVE DESERT AQMD-Credit Card Transactions Transfer - March 2016	2,586.56	0.00	812,392.35
EFT	4/21/2016	[10200] MOJAVE DESERT AQMD-Pay Period 08/2016 - FSADED	350.01	0.00	812,392.35
0005598	4/21/2016	[14212] SAMUEL OKTAY-Attend April 2016 CAPCOA Engineering Meeting in San Francisco, CA	110.06	0.00	812,282.29
0005599	4/21/2016	[10106] PARS-OPEB Trust Admin 02/29/16	300.00	0.00	811,982.29
0005600	4/21/2016	[10114] RAINBOW BUILDING MAINTENANCE-Janitorial Service March 16	1,948.00	0.00	810,034.29
EFT	4/21/2016	[10116] RECALL SECURE DESTRUCTION SERVICES INC-Doc Destruction Service March 2016	69.21	0.00	810,034.29
0005601	4/21/2016	[14275] RECALL TOTAL INFORMATION MANAGEMENT-Doc Retention Service March 2016	254.06	0.00	809,780.23
0005602	4/21/2016	[10118] RICOH USA INC-Invoices 1061659574, 5041204372, 504744315	655.98	0.00	809,124.25
0005603	4/21/2016	[14353] ROBBINS UPHOLSTERY SERVICE-Repair and match of vinyl chair for lobby	140.40	0.00	808,983.85
0005604	4/21/2016	[14255] CHRISTIANA ROBINSON-mileage reimbursement for workshop: "Crisis Communication" in Lake Arrowhead	50.90	0.00	808,932.95
0005605	4/21/2016	[10126] SBCERA-Pay Period 08/2016 - SBCERADefer, SBCERAMatch, SBCERAPickUp, SurvivorInsBen, SurvivorInsDed, RetireCashBen	66,051.76	0.00	742,881.19
0005606	4/21/2016	[10213] SBPEA-Pay Period 08/2016 - GeneralUnitDues	858.32	0.00	742,022.87
EFT	4/21/2016	[10129] SCOTT MARRIN INC-Invoices D50462, D50948	161.20	0.00	742,022.87
0005607	4/21/2016	[10130] SELECT STAFFING-Invoices SL1632105, SL1635398	1,108.25	0.00	740,914.62
0005608	4/21/2016	[14236] GUY SMITH-Conducted annual inspection of NAWS, China Lake - Meal Reimbursement.	62.12	0.00	740,852.50

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0005609	4/21/2016	[10136] SOUTHERN CALIF EDISON-Electric Service April 16	1,701.26	0.00	739,151.24
0005610	4/21/2016	[10146] STATE DISBURSEMENT UNIT - STATE DISBURSEMENT UNIT-CS Garnishment #BL0059318 - ChildSupport	125.07	0.00	739,026.17
0005611	4/21/2016	[14350] STRETCH PRINTING & GRAPHICS-payment for vinyl graphics and application for glass in lobby	252.00	0.00	738,774.17
0005612	4/21/2016	[14269] TEK TIME SYSTEMS INC-Date and Time Stamp Maintenance Contract May 2016 through April 2017	115.00	0.00	738,659.17
0005613	4/21/2016	[10150] THE COUNSELING TEAM-EAP Hours March 2016	540.00	0.00	738,119.17
0005614	4/21/2016	[10161] UNITED WAY DESERT COMMUNITIES-Pay Period 08/2016 - UnitedWay	5.00	0.00	738,114.17
0005615	4/21/2016	[10163] USPS/NEOPOST-Pre Paid Postage	3,000.00	0.00	735,114.17
0005616	4/21/2016	[10166] VERIZON BUSINESS-VOIP & Internet Service April 2016	1,182.66	0.00	733,931.51
0005617	4/21/2016	[14347] VICTORVILLE GLASS CO-Safety Glass Install	516.00	0.00	733,415.51
0005618	4/21/2016	[10081] VOYA 401(A) ACCT-401a Contribution - Heaston - April 2016	954.93	0.00	732,460.58
EFT	4/21/2016	[10082] VOYA FINANCIAL (457)-Pay Period 08/2016 - 457Ded	9,462.10	0.00	732,460.58
EFT	4/21/2016	[10173] VOYAGER FLEET SERVICE-Fuel Card Charges March 16	872.29	0.00	732,460.58
20130665	4/22/2016	Credit Card Transaction - Cemex	0.00	268.00	713,625.95
20130665	4/25/2016	Credit Card Transaction - SBCo Dept of Airports	0.00	47.15	713,673.10
20130665	4/25/2016	Credit Card Transaction - Alaska USA	0.00	292.82	713,965.92
20130665	4/25/2016	Credit Card Transaction - US Army & Gas Business	0.00	325.39	714,291.31
EFT	4/27/2016	Pay period ending 4/15/2016	90,810.35	0.00	623,480.96
ACH042716	4/27/2016	[10047] COLONIAL INSURANCE-Supplemental Insurance Premiums May 2016	375.16	0.00	623,105.80
ACH042816	4/28/2016	[14296] INTERNAL REVENUE SERVICE-PP09/16 - FWIT, FICA, Med	19,000.92	0.00	604,104.88
ACH042816	4/28/2016	[14296] INTERNAL REVENUE SERVICE-PP09/16 - 3rd party sick	26.98	0.00	604,077.90
0005619	4/29/2016	[10195] ACCUFUND, INC-Software Support June 2016 - May 2017	9,583.75	0.00	594,494.15
0005620	4/29/2016	[10057] ALLIED ADMIN-Invoices 2016-08, 2016-09, AA0516	2,185.43	0.00	592,308.72
0005621	4/29/2016	[10193] ANTELOPE VALLEY AQMD-Mileage Reimbursement for Compliance Activities	1,127.74	0.00	591,180.98
EFT	4/29/2016	[10017] BEST BEST & KRIEGER LLP-Gen Counsel Services Through Feb 29 2016	6,152.46	0.00	591,180.98
0005622	4/29/2016	[14273] CAMARGO, EDGAR RUBEN-Governing Board Meeting April 25, 2016.	116.20	0.00	591,064.78
0005623	4/29/2016	[10027] CAPCOA-2016 Spring Membership Conference - Eldon Heaston.	220.00	0.00	590,844.78
0005624	4/29/2016	[10046] CLARK PEST CONTROL-Pest Control April 2016	45.00	0.00	590,799.78
EFT	4/29/2016	[14304] JOHN E COLE-Personnel Committee Meeting & Governing Board Meeting April 25, 2016.	199.90	0.00	590,799.78
0005625	4/29/2016	[10228] JAMES L COX-Governing Board Meeting April 25, 2016.	100.00	0.00	590,699.78
0005626	4/29/2016	[10053] CPS HR CONSULTING-Consulting Services for Executive Recruitment	7,416.93	0.00	583,282.85
0005627	4/29/2016	[10222] JOSEPH DE CONINCK-Governing Board Meeting April 25, 2016.	100.00	0.00	583,182.85
0005628	4/29/2016	[10229] CARMEN HERNANDEZ-Personnel Committee Meeting & Governing Board Meeting April 25, 2016.	137.26	0.00	583,045.59
0005629	4/29/2016	[10263] IN SHAPE HEALTH CLUBS INC-Pay Period 09/2016 - GymDed	179.92	0.00	582,865.67
0005630	4/29/2016	[14257] ROBERT J LEONE-Governing Board Meeting April 25, 2016.	179.92	0.00	582,685.75
0005631	4/29/2016	[10224] ROBERT LOVINGOOD-Personnel Committee Meeting & Governing Board Meeting April 25, 2016.	100.00	0.00	582,585.75

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EFT	4/29/2016	[10200] MOJAVE DESERT AQMD-Pay Period 09/2016 - FSADed	350.01	0.00	582,585.75
0005632	4/29/2016	[10244] PAUL'S PRECISION MAINTENANCE-Maintenance Contract April 2016	1,500.00	0.00	581,085.75
0005633	4/29/2016	[10223] BARBARA RIORDAN-Personnel Committee Meeting & Governing Board Meeting April 25, 2016.	151.84	0.00	580,933.91
0005634	4/29/2016	[10126] SBCERA-Pay Period 09/2016 - SBCERADefer, SBCERAMatch, SBCERAPickUp, SurvivorInsBen, SurvivorInsDed, RetireCashBen	66,051.75	0.00	514,882.16
0005635	4/29/2016	[10213] SBPEA-Pay Period 09/2016 - GeneralUnitDues	858.32	0.00	514,023.84
0005636	4/29/2016	[10130] SELECT STAFFING-Extra Help Reception W/E 04/17/16	693.25	0.00	513,330.59
0005637	4/29/2016	[10144] STANDARD INSURANCE-Invoices 2016-06, 2016-08, SI0516	1,246.50	0.00	512,084.09
0005638	4/29/2016	[10266] BARBARA J STANTON-Governing Board Meeting April 25, 2016.	108.64	0.00	511,975.45
0005639	4/29/2016	[10145] STAPLES INC-Office Supplies	783.06	0.00	511,192.39
0005640	4/29/2016	[10146] STATE DISBURSEMENT UNIT - STATE DISBURSEMENT UNIT-CS Garnishment #BL0059318 - ChildSupport	125.07	0.00	511,067.32
0005641	4/29/2016	[14253] CATHERINE TRAN-Vapor Recovery Meeting/training	122.98	0.00	510,944.34
0005642	4/29/2016	[10161] UNITED WAY DESERT COMMUNITIES-Pay Period 09/2016 - UnitedWay	5.00	0.00	510,939.34
0005643	4/29/2016	[14347] VICTORVILLE GLASS CO-Glass Wall Hanging for District Logo in lobby	2,287.00	0.00	508,652.34
EFT	4/29/2016	[10082] VOYA FINANCIAL (457)-Pay Period 09/2016 - 457Ded	9,462.10	0.00	508,652.34
0005644	4/29/2016	[14323] VSP-Invoices 2016-08, 2016-09	642.24	0.00	508,010.10
EFT	4/29/2016	[14303] JEFFREY HAYES WILLIAMS-Governing Board Meeting April 25, 2016.	289.00	0.00	508,010.10
<b>Total for Report:</b>			<b>670,094.36</b>	<b>556,179.74</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**General Fund MPA**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0007940	4/01/2016	Daily Deposit	0.00	8,515.65	1,536,859.82
0007941	4/06/2016	Daily Deposit	0.00	3,784.28	1,540,644.10
0007942	4/06/2016	Daily Deposit	0.00	4,856.20	1,545,500.30
	4/08/2016	Service Charge	387.43	0.00	1,545,112.87
2016016	4/11/2016	Deposited in error on 2/9/16 to MPB-Moyer should be MPA-General Fund	0.00	100.00	1,545,212.87
0007943	4/11/2016	Daily Deposit	0.00	146,325.94	1,691,538.81
0007944	4/12/2016	Daily Deposit	0.00	206,809.31	1,898,348.12
2016017	4/12/2016	Transfer AB 2766 February 2016	70,322.48	0.00	1,828,025.64
2016015	4/13/2016	Op Fund Rep #14	554,338.38	0.00	1,273,687.26
20130659	4/14/2016	SBCo ACh - Molycorp	0.00	200.00	1,273,887.26
20130660	4/14/2016	SBCo ACH - DPW-EV	0.00	3,000.00	1,276,887.26
20130661	4/19/2016	Daily Deposit	0.00	6,537.44	1,283,424.70
20130662	4/19/2016	Daily Deposit	0.00	10,128.71	1,293,553.41
20130661	4/20/2016	SBCo ACH - USMC	0.00	2,877.14	1,296,430.55
20130663	4/22/2016	SBCo ACH - MDAQMD	0.00	2,586.56	1,299,017.11
20130664	4/22/2016	SBCo ACH - MDAQMD	0.00	350.01	1,299,367.12
20130665	4/26/2016	Daily Deposit - Deposited in Error to MPB-Moyer should be MPA - General Fund	0.00	6,143.25	1,305,510.37
20130665	4/26/2016	Daily Deposit - Deposited in Error to MPB-Moyer should be MPA - General Fund	0.00	51,489.04	1,356,999.41
	4/26/2016	Interest Earned	0.00	2,662.55	1,359,661.96
0007945	4/28/2016	Daily Deposit	0.00	20,175.66	1,379,837.62
<b>Total for Report:</b>			<b>625,048.29</b>	<b>476,541.74</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**AB2766 MPE**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
MPE 2016- 2016017	4/11/2016 4/12/2016 4/26/2016	[10170] VIDEO CONFERENCING STORE-AB2766 Grant Transfer AB 2766 February 2016 Interest Earned	7,261.94 0.00 0.00	0.00 70,322.48 4,705.00	2,912,119.46 2,982,441.94 2,987,146.94
<b>Total for Report:</b>			<b>7,261.94</b>	<b>75,027.48</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**Carl Moyer MPB**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/11/2016	[10200] MOJAVE DESERT AQMD-To correct deposit error on 2/9/16	100.00	0.00	503,232.08
MPE 16-14	4/12/2016	[10240] ENVIRONMENTAL ENGINEERING STUDIES-Moyer Grant	11,964.00	0.00	491,268.08
20130663	4/26/2016	Deposited in Error to MPB-Moyer should be MPA - General Fund	0.00	6,143.25	497,411.33
20130664	4/26/2016	Deposited in Error to MPB-Moyer should be MPA - General Fund	0.00	51,489.04	548,900.37
	4/26/2016	Interest Earned	0.00	692.28	549,592.65
<b>Total for Report:</b>			<b>12,064.00</b>	<b>58,324.57</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**PARS Held in Trust**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	4/30/2016	Interest Earned	0.00	5,352.72	555,535.19
<b>Total for Report:</b>			<b>0.00</b>	<b>5,352.72</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**District Card - Assigned**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000117	4/09/2016	[13961] JEAN BRACY-Refreshments ad hoc committee for labor relations: Lovingood, Hernandez, Heaston, Bracy 3-30-2016	8.93	0.00	2,902.32
0000118	4/09/2016	[13961] JEAN BRACY-Parking CalPELRA Training, Irvine March 3, 2015	12.00	0.00	2,890.32
0000119	4/09/2016	[13961] JEAN BRACY-Air Travel to Sacramento - Special District Board meeting; expense to be reimbursed	321.46	0.00	2,568.86
0000120	4/09/2016	[11809] CHRIS COLLINS-Lunch Meeting w EPA Title V Apps and Submittals RNB, CA, CC	9.98	0.00	2,558.88
0000121	4/09/2016	[11809] CHRIS COLLINS-Engineering Lunch meeting with EPA to meet and discuss Title V applications and submittals	66.60	0.00	2,492.28
0000122	4/09/2016	[11809] CHRIS COLLINS-Tundra Grass of Home and Garden Show	139.32	0.00	2,352.96
0000123	4/09/2016	[11809] CHRIS COLLINS-Airfare to Ont to Oak for CAPCOA managers meeting	208.46	0.00	2,144.50
0000124	4/09/2016	[11809] CHRIS COLLINS-Replacement Door Jam for Air Monitoring Remodel	249.97	0.00	1,894.53
0000125	4/09/2016	[10825] ALAN DE SALVIO-Two Cash for Grass gift cards from Home Depot	100.00	0.00	1,794.53
0000126	4/09/2016	[10825] ALAN DE SALVIO-Fuel purchase for District vehicle	37.69	0.00	1,756.84
0000127	4/09/2016	[11853] ELDON HEASTON-CAPCOA Rural District's Meeting Lodging, Airfare, Parking, Fuel	617.67	0.00	1,139.17
0000128	4/09/2016	[11853] ELDON HEASTON-Rotary Club of Victorville Invoice 6539 March 1, 2016	137.00	0.00	1,002.17
0000129	4/09/2016	[11853] ELDON HEASTON-Badge And Wallet	342.00	0.00	660.17
0000130	4/09/2016	[11853] ELDON HEASTON-Blythe Florist & Gifts.	70.00	0.00	590.17
0000131	4/09/2016	[11067] VIOLETTE ROBERTS-Stater Bros - Batteries for CRE PA system	5.80	0.00	584.37
0000132	4/09/2016	[11067] VIOLETTE ROBERTS-CSUSB - Parking - Class Presentation to Environmental Science Class	6.00	0.00	578.37
0000015	4/09/2016	April 16 Payment	0.00	2,332.88	2,911.25
<b>Total for Report:</b>			<b>2,332.88</b>	<b>2,332.88</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**District Card - 0059**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
000022	4/09/2016	April 2016 Payment	0.00	1,535.85	1,535.85
0000102	4/09/2016	[14356] CUBESMART-Offsite Storage Rental April 2016	249.00	0.00	1,286.85
0000103	4/09/2016	[10054] DAC ENTERPRISES INC-Dust Brochure	650.00	0.00	636.85
0000104	4/09/2016	[10070] FEDERAL EXPRESS CORPORATION-Courier service Dec 15	90.48	0.00	546.37
0000105	4/09/2016	[10070] FEDERAL EXPRESS CORPORATION-Courier service Jan 16	127.40	0.00	418.97
0000106	4/09/2016	[10138] SPARKLETTS-Water delivery service Dec 2015	38.11	0.00	380.86
0000107	4/09/2016	[10138] SPARKLETTS-Water Delivery Service Jan 2016	28.02	0.00	352.84
0000108	4/09/2016	[10138] SPARKLETTS-Water Delivery Service Feb 16	58.00	0.00	294.84
0000109	4/09/2016	[14215] MICHELLE ZUMWALT-62 Corridor Travel for Inspections 3/28/2016 - 3/31/2016	294.84	0.00	
<b>Total for Report:</b>			<b>1,535.85</b>	<b>1,535.85</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**District Card - 5717**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000065	4/09/2016	[10031] CDW - G-APC Power Distribution Unit for network cabinet/comm. rack. Accomodate expanding power requirements. (APC AP7801) (Re-entered post database restore)	389.46	0.00	-389.46
0000066	4/09/2016	[10066] PRESS ENTERPRISE-Invoices 691, 692, 700	516.00	0.00	-905.46
0000067	4/09/2016	[10550] VICTOR RAMIREZ-Lodging - Needles Sweep Inspections	263.48	0.00	-1,168.94
0000068	4/09/2016	[14232] TREVOR SAMORAJSKI-Monoprice.com - Cat 6 patch cables for network cabinet/comm. rack. (Re-entered post database restore)	140.30	0.00	-1,309.24
0000069	4/09/2016	[14232] TREVOR SAMORAJSKI-Airfare - IT/IS support for CAPCOA Engineering Symposium	137.47	0.00	-1,446.71
0000070	4/09/2016	[14236] GUY SMITH-Lodging China Lake NAWS Inspections	144.73	0.00	-1,591.44
0000071	4/09/2016	[14245] SARAH STROUT-Lodging - Inspections in Parker Dam	316.82	0.00	-1,908.26
0000072	4/09/2016	[14245] SARAH STROUT-Inspection of China Lake - NAWS	144.73	0.00	-2,052.99
0000021	4/09/2016	April 2016 Payment	0.00	2,052.99	
<b>Total for Report:</b>			<b>2,052.99</b>	<b>2,052.99</b>	

**Mojave Desert AQMD**  
**Bank Register from 4/01/2016 to 4/30/2016**  
**District Card- 8958**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000023	4/09/2016	April 2016 Payment	0.00	4,354.36	4,354.36
0000076	4/11/2016	[10033] CHARTER BUSINESS-Internet Service Feb 16	1,717.22	0.00	2,637.14
0000077	4/11/2016	[10033] CHARTER BUSINESS-Internet Service March 16	1,717.22	0.00	919.92
0000078	4/11/2016	[10550] VICTOR RAMIREZ-Lodging - Needles Inspections Sweep	479.52	0.00	440.40
0000079	4/11/2016	[14221] ROBYN SIMPSON-Order ergonomic back support for Danielle Ramos	53.88	0.00	386.52
0000080	4/11/2016	[10169] VERIZON WIRELESS SERVICES, LLC-Invoices VW011516, VW021516, VW031516, VZW020116, VZW030116	386.52	0.00	
<b>Total for Report:</b>			<b>4,354.36</b>	<b>4,354.36</b>	

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

*AGENDA ITEM 4*

**DATE:** June 27, 2016

**RECOMMENDATION:** Receive and file.

**SUMMARY:** Receive and file information addressing Governing Board discussion April 25, 2016 with regard to the OPEB Actuarial Report, the Retiree Health Benefit, and cost recovery for contracted staff benefits.

**CONFLICT OF INTEREST:** None

**BACKGROUND:** At the Board meeting April 25, 2016, staff presented the biannual actuarial report that tested the District's deposit into an irrevocable trust for meeting the liability requirements of OPEB (other post-employment benefits). Board members initiated a discussion that covered a number of topics. Responses to those topics and related questions that were raised during the discussion have been addressed in Additional Information attached to this item.

**REASON FOR RECOMMENDATION:** Receive and file information addressing Governing Board discussion April 25, 2016 with regard to the OPEB Actuarial Report, Retiree Health Benefit, and cost recovery for contracted staff benefits.

**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 June 6, 2016.

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**PRESENTER:** Jean Bracy, Deputy Director - Administration

## ADDITIONAL INFORMATION

### AGENDA ITEM 4

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#### OPEB Actuarial Report

**Treatment of Implicit Subsidy** - The actuary explains (p. 8) that the Implicit Subsidy consists of using a blended premium for determining the health premium that may be required in future years. Implicit Subsidy requires the actuary to “blend” the rates for the active employees and the rates for the retirees to determine the cost basis for future requirements. These rates are usually significantly different due to the Medicare supplement for those eligible retirees. Until the current year this implicit subsidy calculation could be disregarded. Adding this to the District’s obligation increases the deposit requirement by \$255,000. Mr. Russ specifically asked that that actuary’s recommendation (p. 5) be reconsidered and the District transfer the additional amount into the Trust.

The District has some discretion regarding the Trust principal deposit. It is important to consider that this irrevocable trust has very tight restrictions on the use of funds in that withdrawals can only be used to offset costs associated with providing medical insurance to *retirees* (premiums or premium subsidies) and administration costs associated with the Trust. The District’s deposit of \$500,000 has earned sufficient earnings (total \$115,871) since November 1, 2009 to pay the associated costs with the program (\$85,033).

Given the restrictions, it would take more than 14 years to use the funds currently on deposit without considering additional earnings. An actuarial review of the Trust is required every two years allowing the Board to consider the condition of the Trust relative to its designed purposes and make periodic adjustments through the life of the Trust.

**Reference to “age 40”** - During the discussion about the District’s Retiree Health Benefit, Mr. Cox requested clarification regarding a reference to the retiree health benefit and a presumed requirement of “age 40.” The actuarial report (p. 13) consists of a number of assumptions used in order to draw predictions about how the benefit could be used over the next 30 years. The prediction created a “profile” of employees who have been with the District prior to July 1, 2009 and assumed those had 10 years of prior public service. This profile would help to predict who will be likely to be eligible for the subsidy and the cost of that benefit. This profile is not indicative of the District’s retired employees who actually benefited from this provision (discussed later). The District’s Retiree Health Benefit does not have this age reference.

#### Retiree Health Benefit

The Board’s discussion pursued the provisions of the benefit provided by the District.

**Negotiated Benefit** - This benefit is the direct result of labor negotiations in 2004. The Memorandum of Understanding (MOU) that resulted covered the period July 1, 2004 through June 30, 2009 (five years). The provision has remained in its original form for each successor MOU. Changes to this benefit are subject to negotiations with the employees’ union and those changes will likely impact only future employees.

**History** - The San Bernardino Public Employees Association, the General Unit representation at the time, placed this item on the table in their proposal dated January 13, 2004. A number of

## ADDITIONAL INFORMATION

### AGENDA ITEM 4

PAGE 3

employees were retirement eligible and desired an incentive to facilitate their retirement. The basic benefit required 10 years of service with the District and a subsidy per year of service (such as 2%).

The District was formed in July 1993. During these negotiations employees' service with the MDAQMD was 11 years. Nearly all of the employees in 2004 acquired service time from San Bernardino County. Governing Board members were favorable to the benefit but wanted the benefit to be awarded to those with long associated tenure and acknowledged the tenure of employees who transferred from the County. In further discussions, the Board members expressed that prior service with member agencies was meaningful and should be considered in the calculation for applicable service time. The thought was that member agencies have a stake in the development of the employees that subsequently work for the District.

**Cost Estimates** - The cost estimates at the time indicated that there were savings achieved from a full time employee retiring and no longer subject to the full value of the Flexible Benefit Plan subsidy (at the time \$660/month or about \$8,000 per year). Estimates at the time indicated that the subsidy per retiree were estimated to be about \$3,500 per year, resulting in approximate savings of \$4,500 per year per retiree. Notes from the negotiations indicated that up to six employees were on the verge of retiring.

Since the initiation of this benefit (July 1, 2004) 19 employees have retired. Of those retirees, 14 have taken advantage of continuing health care coverage with CalPERS. There are currently 11 employees in the health care program as retired annuitants and only 1 is currently receiving a subsidy. Of all those who continued health care coverage, 5 have been eligible for a subsidy. Those who have received the subsidy (totals are estimates, premium values change each year):

- EE 1. 60 months = approximately \$32,000 (subsidy expired 2011)
- EE 2. 60 months = approximately \$25,000 (subsidy expired 2010)
- EE 3. 60 months = approximately \$58,000 (subsidy expired 2014)
- EE 4. 60 months = approximately \$23,000 (subsidy expired 2012)
- EE 5. 60 months = approximately \$24,000 (subsidy expires August 2017)

Total Subsidy from program inception (12 years): \$162,000; on average approximately \$13,500 per year. Since 2009 these costs are paid from the investment earnings of the OPEB Trust and not the General Fund.

**Benefit Limitations** - The benefit is self-limiting for a number of reasons. First, the benefit requires employees to have 20 years of public service, and the last 10 years have to be with the MDAQMD. Second, the employee has to be enrolled in the health care program at retirement. Third, the subsidy benefit is payable for 60 months or until the employee reaches age 65, or becomes Medicare eligible, whichever comes first. Of the last 20 employees to retire, the age at retirement has averaged 61 years. As noted previously, not every retiring employee has been eligible either because of age or non-enrollment. The District is obligated under the PEMCHA statute to pay the administrative fee for those employees enrolled in CalPERS health care. The \$1,500 per year per retiree is a commitment that will remain with the District for the foreseeable future. This alone necessitates the irrevocable trust to fund the future liability of this obligation.

**Benefit Details** - The District's retiree health care benefits have two parts:

1. As a member of CalPERS for health benefits, the District is subject to the Public Employees Medical and Hospital Care Act (PEMHCA). This statute requires the member employer to contribute toward employee health care benefits which are currently \$122 per employee per month. This amount is included in the Flexible Benefit dollars provided to each employee to offset their selection of health care benefits. The unique feature of participating in CalPERS health plan is that employees have the right under the statute to continue medical coverage with CalPERS into retirement and the District is obligated to continue the "PEMHCA Contribution" for as long as the retiree remains enrolled.
2. Effective July 1, 2004, the District negotiated the "Retiree Medical Benefit." Employees are eligible with 20 years of public service including employment with a member agency and at least 10 years of service with the District. The District will contribute 2% per service year toward the retiree's (and spouse) medical premium under a CalPERS plan. The contribution is payable for 60 months from retirement or until the retiree reaches the age of 65, whichever event occurs first.

Cost Recovery for Contracted Staff Benefits

Finally, the Governing Board asked staff to report the cost recovery methods applied for these future benefits, particularly as it relates to the contract with the Antelope Valley Air Quality Management District (AVAQMD).

**Retirement costs.** The contract terms with AVAQMD charges the base rate for every employee that works the contract and the actual associated cost for employee benefits. For retirement costs, the AVAQMD is charged the full employer contribution amount required for each employee. This "employer contribution" includes the normal cost for the current year and the unfunded actuarial accrued liability (UAAL). Therefore, to the best of our ability we are recovering future costs associated with retiree benefits.

**Retiree Health Benefit.** First, it's difficult to determine those employees who might take advantage of the retiree health benefit and whether they will be the beneficiary of the premium subsidy. Second, the OPEB Trust is currently able, as noted above, to fund those retiree benefits from the investment earnings and not the General Fund. This condition removes the need to pass the cost to the AVAQMD contract.

Staff reviewed these topics with the Budget Committee at their meeting May 19, 2016. This report is provided at their request for the benefit of all the Governing Board members.

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

*AGENDA ITEM 5*

**DATE:** June 27, 2016

**RECOMMENDATION:** Receive and file

**SUMMARY:** The Legislative Report for June 7, 2016

**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.

The list of seventy measures that were of particular interest has been pared. Nine that remain of particular interest to the MDAQMD are marked "\*\*\*\*\*" for easy reference on report. In addition, the consultant has referenced several that are "dead but not dead;" those are identified on the report. 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 Alan De Salvio, Deputy Director – Mojave Desert Operations on or about June 10, 2016.

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**PRESENTER:** Eldon Heaston, Executive Director

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*Government Affairs and Communication Consulting*

FRANK T. SHEETS, III  
LAURIE HANSEN SHEETS

## MEMORANDUM

**TO:** Eldon Heaston  
Bret Banks

**FROM:** Frank Sheets  
Laurie Hansen

**DATE:** June 8, 2016

**RE:** Bill Tracking Report

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Once again, Strategic Partners is pleased to provide our June report on status of California Legislation tracked on behalf of the Mojave Desert and Antelope Valley Air Pollution Control Districts. As always, we are providing a sampling of recent media coverage we feel might be of interest.

As this report is reviewed, the reader will note we are now tracking twenty (20) less bills than listed in our May report. **June 3<sup>rd</sup> represents a significant deadline in the California legislative process.** As of June 3<sup>rd</sup>, all introduced bills in each house, by rule, must pass out of their house of origin. In the first year of a two-year session, failure of a bill to pass from its house will basically be put on hold and can be acted upon the following year. But in the 2<sup>nd</sup> year of a two-year session, failure of a bill to pass its house results in it becoming "DEAD". At least twenty of the bills tracked on behalf of the districts failed passage from their respective houses and therefore are DEAD and are no longer being tracked. But as always, there are exceptions to the rules. Note in this report that there are several bills that failed the requirement to move from their house of origin, yet are not considered DEAD. Namely, AB 1591, as well as SB 1402, 1430, 1441, 1453 and 1464. Considering these bills are not technically DEAD, they continue to be listed in this report and should be considered ALIVE. Currently we have no explanation as to why these bills have not been announced as DEAD, considering the rules apply both to the Assembly as well as the Senate.

The DEAD bills removed from this listing are as follows: AB 1683, 1710, 1780, 1815, 1981, 2038, 2109, 2146, 2276, 2293, 2323, 2415, 2585, 2699, 2702, 2769, 2829, SB 925, 1043, and 1239 .

**We specifically would like to draw your attention to the failure AB 2829, the bill dealing with the Carl Moyer Program. Considering the bill proposed to terminate the program, its failure might be considered positive to the Districts.**

One of the more interesting articles included in this report is **the Dan Walters article about the shortfall in proceeds from the latest CARB Cap and Trade Auctions.** Sacramento anticipated the last auction" sale of GHG emissions credits would generate some \$500,000,000, the latest auction only generated a mere \$10M. Considering the state anticipates spending some \$3 trillion from these auction proceeds, it makes sense the State might be re-evaluating of what programs might continue and what might be cut. A hard thing for Sacramento to do!

As always, should there be questions, please do not hesitate to contact us.

# AQMD 2016 Bills

## Tuesday, June 07, 2016

[AB 45](#)  
\*\*\*\*\*

**(Mullin D) Household hazardous waste.**

**Current Text: Amended: 1/21/2016** [pdf](#) [html](#)

**Current Analysis: 01/26/2016** [Assembly Floor Analysis \(text 1/21/2016\)](#)

**Introduced: 12/1/2014**

**Last Amend: 1/21/2016**

**Location: 2/4/2016-S. E.Q.**

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

**Calendar: 6/15/2016 9:30 a.m. - Room 3191 SENATE ENVIRONMENTAL QUALITY, WIECKOWSKI, Chair**

**Summary:** *Would require the Department of Resources Recycling and Recovery to adopt one or more model ordinances for a comprehensive program for the collection of household hazardous waste and would authorize a local jurisdiction that provides for the residential collection and disposal of solid waste that proposes to enact an ordinance governing the collection and diversion of household hazardous waste to adopt one of the model ordinances adopted by the department.*

**Vote Events:**

01/27/2016 ASM. FLOOR (Y:50 N:18 A:11) (P)

01/21/2016 ASM. APPR. (Y:12 N:0 A:5) (P)

04/28/2015 ASM. E.S. & T.M. (Y:4 N:2 A:1) (P)

04/22/2015 ASM. L. GOV. (Y:6 N:3 A:0) (P)

**Notes 1:** *SPG fels this to be a reasonable proposal and wonders why none have proposed it in the past. Such a household hazardous waste collection program could assist in the proper management of this waste stream.*

[AB 1115](#)  
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**(Salas D) School zones: state highways.**

**Current Text: Amended: 1/13/2016** [pdf](#) [html](#)

**Current Analysis: 01/19/2016** [Assembly Appropriations \(text 1/13/2016\)](#)

**Introduced: 2/27/2015**

**Last Amend: 1/13/2016**

**Location: 2/4/2016-S. T. & H.**

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

**Calendar: 6/14/2016 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE TRANSPORTATION AND HOUSING, BEALL, Chair**

**Summary:** *Current law generally provides that the Department of Transportation and local authorities have authority over the highways under their respective jurisdictions. This bill would designate a specified portion of State Highway Route 184 in the County of Kern as a school zone and require the zone to be identified with standard "SCHOOL" warning signs. The bill would provide that the specified referenced provisions governing prima facie speed limits in school zones apply in that zone. This bill contains other current laws.*

**Vote Events:**

01/27/2016 ASM. FLOOR (Y:78 N:0 A:1) (P)

01/21/2016 ASM. APPR. (Y:17 N:0 A:0) (P)

01/11/2016 ASM. TRANS. (Y:16 N:0 A:0) (P)

**Notes 1:** *SPG felt members of the Mojave Desert AQMD might have interest in this bill as it has similarities to efforts to deal with vehicular traffic in school districts.*

**AB 1550**

**(Gomez D) Greenhouse gases: investment plan: disadvantaged communities.**

**Current Text: Amended: 5/31/2016 [pdf](#) [html](#)**

**Current Analysis: 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)**

**Introduced: 1/4/2016**

**Last Amend: 5/31/2016**

**Location: 6/6/2016-S. RLS.**

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

**Summary: Current law requires the Department of Finance, in consultation with the State Air Resources Board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund. This bill would require the investment plan to allocate a minimum of 25% of the available moneys in the fund to projects located within, and benefitting individuals living in, disadvantaged communities and a minimum of 20% to projects that benefit low-income households, as specified, with a fair share of those moneys targeting households with incomes at or below 200% of the federal poverty level.**

**Vote Events:**

**06/02/2016 ASM. FLOOR (Y:54 N:23 A:3) (P)**

**05/27/2016 ASM. APPR. (Y:15 N:2 A:3) (P)**

**04/04/2016 ASM. NAT. RES. (Y:7 N:0 A:2) (P)**

**Notes 1: AB 1532, codified in 2012, mandates the state to use monies generated by the Cap and Trade program and deposited in the California Green House Gas Reduction fund to be used to the benefit of disadvantaged communities. This bill would mandate 25% of the funds be used for projects in disadvantages communities and another 25% of the fund be used for projects that benefit low-income households. This accounts for 50% of such funds be used in the proposed manners. To provide a feel for how much money this represents, based on the February 2016 auction proceeds, approximately \$2.360 billion will be generated in 2016. This bill proposes a request for 50% of those funds for such programs. Of coarse these numbers are estimates only and should only be represents as such, but gives the reader a flavor for the amounts of moneys such bills seed to direct to specific projects.**

**4/11 amendments resulted in no significant modifications to the bill.**

**5/31 minor amendments and passes out of house of origin**

**AB 1591**

**(Frazier D) Transportation funding.**

**Dead  
but not dead**

**Current Text: Introduced: 1/6/2016 [pdf](#) [html](#)**

**Introduced: 1/6/2016**

**Location: 2/1/2016-A. TRANS.**

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

**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 to ensure efficient use of the funds available for the program. This bill contains other related provisions and other existing laws.**

**Notes 1: The generation of "performance criteria" to be used in the the evaluation of proposed projects to maintain and repair of transportation infrastructure is an interesting proposal. The cement industry is a major advocate of such a proposal.**

**Although the bill failed to pass from its house of origin by the June 3rd deadline, the bill is not listed as dead and special consideration may apply.**

**AB 1657**

**(O'Donnell D) Air pollution: public ports and intermodal terminals.**

**Current Text:** Amended: 4/7/2016 [pdf](#) [html](#)

**Current Analysis:** 05/09/2016 [Assembly Appropriations \(text 4/7/2016\)](#)

**Introduced:** 1/13/2016

**Last Amend:** 4/7/2016

**Location:** 5/11/2016-A. APPR. SUSPENSE FILE

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

**Summary:** Would establish the Zero- and Near-Zero-Emission Intermodal Terminals Program to be administered by the State Air Resources Board to fund equipment upgrades and investments at intermodal terminals, as defined, to help transition the state's freight system to be zero- and near-zero-emission operations. The bill would authorize the program to be implemented with moneys from the Greenhouse Gas Reduction Fund. This bill contains other related provisions and other existing laws.

**Vote Events:** 04/18/2016 ASM. TRANS. (Y:15 N:0 A:1) (P) 04/04/2016 ASM. NAT. RES. (Y:9 N:0 A:0) (P)

**Notes 1:** Another grab for GHG Reduction Fund monies to help improve infrastructure at intermodal facilities.

*This bill had minor amendments and has moved from Assembly Transportation to Assembly Appropriations.*

**AB 1685**

**(Gomez D) Vehicular air pollution: civil penalties.**

**Current Text:** Amended: 4/11/2016 [pdf](#) [html](#)

**Current Analysis:** 06/06/2016 [Senate Senate Environmental Quality \(text 4/11/2016\)](#)

**Introduced:** 1/20/2016

**Last Amend:** 4/11/2016

**Location:** 5/19/2016-S. E.Q.

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

**Calendar:** 6/8/2016 9:30 a.m. - Room 3191 SENATE ENVIRONMENTAL QUALITY, WIECKOWSKI, Chair

**Summary:** Current law provides that a manufacturer or distributor who does not comply with the emission standards or the test procedures adopted by the State Air Resources Board is subject to a civil penalty of \$50 per vehicle. This bill would increase those penalties to \$37,500 per action or vehicle. The bill would require the state board to adjust those penalties for inflation, as specified.

**Vote Events:** 05/12/2016 ASM. FLOOR (Y:48 N:29 A:3) (P) 05/04/2016 ASM. APPR. (Y:14 N:6 A:0) (P)

04/18/2016 ASM. TRANS. (Y:10 N:5 A:1) (P)

**Notes 1:** April 11 amendments to this bill significantly increase penalties for individuals who sell, rent, lease new vehicles or provide new replacement engines that fail state emission limitations and has moved from Assembly Transportation to Assembly Appropriations.

**AB 1691**

**(Gipson D) Vehicular air pollution: vehicle retirement.**

**Current Text:** Amended: 5/12/2016 [pdf](#) [html](#)

**Current Analysis:** 05/18/2016 [Assembly Floor Analysis \(text 5/12/2016\)](#)

**Introduced:** 1/21/2016

**Last Amend:** 5/12/2016

**Location:** 6/2/2016-S. T. & H.

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

**Summary:** Current law creates an enhanced fleet modernization program for the retirement of high-polluting vehicles to be administered by the Bureau of Automotive Repair pursuant to guidelines adopted by the State Air Resources Board. Current law requires the program's guidelines to be updated no later than June 30, 2015.

Current law requires the updated guidelines to ensure vehicle replacement be an option for all motor vehicle owners and may be in addition to compensation for vehicles retired, as specified. This bill would require the state board, by June 30, 2017, to update the guidelines, as specified, that would be operative until July 1, 2022.

**Vote Events:** 05/23/2016 ASM. FLOOR (Y:59 N:18 A:3) (P) 05/11/2016 ASM. APPR. (Y:15 N:5 A:0) (P)

04/18/2016 ASM. TRANS. (Y:13 N:1 A:2) (P)

**Notes 1:** This bill proposes to update the states plan to utilize state general funds to replace high polluting vehicles in disadvantaged communities if certain conditions are met.

Recent amendments now include a reference to the "Districts" regarding implementation of the vehicle replacement program rather than the State. Could mean more District responsibilities.

**AB 1773**

**(Obernoite R) Local government renewable energy self-generation program.**

**Current Text: Amended: 4/13/2016 [pdf](#) [html](#)**

**Current Analysis: 05/02/2016 [Assembly Appropriations \(text 4/13/2016\)](#)**

**Introduced: 2/3/2016**

**Last Amend: 4/13/2016**

**Location: 5/19/2016-S. E. U., & C.**

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

**Calendar: 6/13/2016 Upon adjournment of Session - Room 112 SENATE ENERGY, UTILITIES AND COMMUNICATIONS, HUESO, Chair**

**Summary: Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities. Existing law authorizes a local governmental entity, except a joint powers authority, to receive a bill credit to a designated benefiting account, for electricity exported to the electrical grid by an eligible renewable generating facility and requires the commission to adopt a rate tariff for the benefiting account. This bill would include as a local governmental entity for this purpose a joint powers authority, except as specified. This bill contains other related provisions and other existing laws.**

**Vote Events:**

**05/12/2016 ASM. FLOOR (Y:78 N:0 A:2) (P)**

**05/04/2016 ASM. APPR. (Y:20 N:0 A:0) (P)**

**04/20/2016 ASM. L. GOV. (Y:9 N:0 A:0) (P)**

**04/06/2016 ASM. U. & C. (Y:15 N:0 A:0) (P)**

**AB 1787**

**(Gomez D) California Environmental Protection Agency: cross-media enforcement unit.**

**Current Text: Introduced: 2/4/2016 [pdf](#) [html](#)**

**Current Analysis: 06/06/2016 [Senate Senate Environmental Quality \(text 2/4/2016\)](#)**

**Introduced: 2/4/2016**

**Location: 4/28/2016-S. E. Q.**

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

**Calendar: 6/8/2016 9:30 a.m. - Room 3191 SENATE ENVIRONMENTAL QUALITY, WIECKOWSKI, Chair**

**Summary: Current law requires the Secretary for Environmental Protection's deputy secretary for law enforcement and counsel to, in consultation with the Attorney General, establish a cross-media enforcement unit to assist boards, departments, offices, or other agencies that implement a law or regulation within the jurisdiction of CalEPA, as specified. This bill would require the cross-media enforcement unit to prioritize the state's most disadvantaged communities, as specified.**

**Vote Events:**

**04/11/2016 ASM. FLOOR (Y:73 N:0 A:6) (P)**

**04/06/2016 ASM. APPR. (Y:17 N:0 A:3) (P)**

**03/14/2016 ASM. NAT. RES. (Y:7 N:0 A:2) (P)**

**Notes 1: This bill has moved from Assembly Appropriations to Senate Environmental Quality without amendments.**

**AB 1851**

**(Gray D) Vehicular air pollution: reduction incentives.**

**Current Text:** Amended: 4/13/2016 [pdf](#) [html](#)

**Current Analysis:** 05/09/2016 [Assembly Appropriations \(text 4/13/2016\)](#)

**Introduced:** 2/10/2016

**Last Amend:** 4/13/2016

**Location:** 5/27/2016-A. DEAD

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

**Summary:** Would, for purposes of the Clean Vehicle Rebate Project, require the State Air Resources Board, until January 1, 2026, to provide specified rebate amounts for battery electric vehicles, fuel-cell vehicles, and plug-in hybrid electric vehicles and to implement a process to allow eligible applicants to obtain prompt preapproval from the state board prior to purchasing an eligible vehicle, as specified.

**Vote Events:**

04/18/2016 ASM. REV. & TAX. (Y:6 N:3 A:0) (P)

04/11/2016 ASM. TRANS. (Y:10 N:5 A:1) (P)

**AB 1903**

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**(Wilk R) Aliso Canyon gas leak: health impact study.**

**Current Text:** Amended: 5/31/2016 [pdf](#) [html](#)

**Current Analysis:** 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

**Introduced:** 2/11/2016

**Last Amend:** 5/31/2016

**Location:** 6/2/2016-S. RLS.

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

**Summary:** Current law requires the Office of Environmental Health Hazard Assessment to evaluate the environmental and health risks posed by various substances. This bill, if sufficient moneys are recovered by the Public Utilities Commission and appropriated for the purpose of these provisions, would require the commission to authorize a study by the Office of Environmental Health Hazard Assessment of the long-term health impacts of the significant natural gas leak from the Aliso Canyon natural gas storage facility located in the County of Los Angeles that started approximately October 23, 2015, as specified.

**Vote Events:**

06/01/2016 ASM. FLOOR (Y:80 N:0 A:0) (P)

05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)

03/30/2016 ASM. U. & C. (Y:15 N:0 A:0) (P)

**Notes 1:** In response to the Porter Ranch gas leak and is currently on the Suspense file.

**AB 1904**

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**(Wilk R) Hazardous materials: natural gas odorants.**

**Current Text:** Amended: 5/27/2016 [pdf](#) [html](#)

**Current Analysis:** 05/31/2016 [Assembly Floor Analysis \(text 5/27/2016\)](#)

**Introduced:** 2/11/2016

**Last Amend:** 5/27/2016

**Location:** 6/6/2016-S. RLS.

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

**Summary:** Would require the Office of Environmental Health Hazard Assessment to submit a report to the Legislature, on or before January 1, 2019, that includes an assessment of the danger of odorants currently used in natural gas storage facilities in the state to public health and safety and the environment, and that identifies alternative odorants for possible use in natural gas storage facilities, as specified. This bill contains other related provisions.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:76 N:0 A:4) (P)

05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)

03/29/2016 ASM. E.S. & T.M. (Y:7 N:0 A:0) (P)

**Notes 1:** In response to the Porter Ranch Natural gas leak calling for a study to be performed to determine potential health impacts associated with Natural Gas odorants. Seems somewhat redundant to the authors AB 1903 dealing with the same subject.

[AB 1905](#)  
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**(Wilk R) Natural gas injection and storage: study.**

**Current Text:** Amended: 4/7/2016 [pdf](#) [html](#)

**Current Analysis:** 04/18/2016 [Assembly Appropriations \(text 4/7/2016\)](#)

**Introduced:** 2/11/2016

**Last Amend:** 4/7/2016

**Location:** 4/20/2016-A. APPR. SUSPENSE FILE

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

**Summary:** Would require the Secretary of the Natural Resources Agency, on or before July 1, 2017, to cause to be conducted, and completed, an independent scientific study on natural gas injection and storage practices and facilities, as specified. This bill contains other related provisions.

**Vote Events:**

04/04/2016 ASM. NAT. RES. (Y:8 N:0 A:1) (P)

**Notes 1:** In response to the Porter Ranch Gas leak and is currently on the Suspense file.

[AB 1923](#)

**(Wood D) Bioenergy feed-in tariff.**

**Current Text:** Amended: 6/2/2016 [pdf](#) [html](#)

**Current Analysis:** 04/25/2016 [Assembly Appropriations \(text 4/14/2016\)](#)

**Introduced:** 2/11/2016

**Last Amend:** 6/2/2016

**Location:** 6/2/2016-S. E. U., & C.

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

**Calendar:** 6/13/2016 Upon adjournment of Session - Room 112 SENATE ENERGY, UTILITIES AND COMMUNICATIONS, HUESO, Chair

**Summary:** Would require the Public Utilities Commission to direct the electrical corporations to authorize a bioenergy electric generation facility with a nameplate generating capacity of up to 5 megawatts to participate in the bioenergy feed-in tariff if the facility delivers no more than 3 megawatts to the grid at any time and complies with specified interconnection and payment requirements.

**Vote Events:**

05/05/2016 ASM. FLOOR (Y:79 N:0 A:1) (P)

04/27/2016 ASM. APPR. (Y:19 N:0 A:1) (P)

03/30/2016 ASM. U. & C. (Y:15 N:0 A:0) (P)

**Notes 1:** Appears to broaden the number of participants who can participate in providing renewable electricity into the states electrical grid.

[AB 1937](#)

**(Gomez D) Electricity: procurement.**

**Current Text:** Amended: 4/25/2016 [pdf](#) [html](#)

**Current Analysis:** 05/20/2016 [Assembly Floor Analysis \(text 4/25/2016\)](#)

**Introduced:** 2/12/2016

**Last Amend:** 4/25/2016

**Location:** 5/23/2016-S. RLS.

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

**Summary:** Would require electrical corporations' proposed procurement plans to also include a showing that the electrical corporations (1), in soliciting bids for gas-fired generation resources from new or repowered facilities, actively seek bids for resources that are not gas-fired generation resources located in or adjacent to communities that suffer from cumulative pollution burdens and other environmental impacts and (2), in considering bids for, or negotiating bilateral contracts for, new or repowered gas-fired generation resources, give priority to generation resources that are not gas-fired generation resources located in or adjacent to those communities.

**Vote Events:**

05/23/2016 ASM. FLOOR (Y:51 N:26 A:3) (P)05/18/2016 ASM. APPR. (Y:14 N:6 A:0) (P)04/18/2016 ASM.

NAT. RES. (Y:6 N:2 A:1) (P)04/13/2016 ASM. U. & C. (Y:10 N:5 A:0) (P)

**Notes 1:** This bill has been significantly amended from its original version in that it now calls for restrictions on where electrical utilities can acquire electricity generated from natural gas fired generation.

**AB 1964**

**(Bloom D) High-occupancy vehicle lanes: vehicle exceptions.**

**Current Text:** Amended: 5/5/2016 [pdf](#) [html](#)

**Current Analysis:** 05/06/2016 [Assembly Floor Analysis \(text 5/5/2016\)](#)

**Introduced:** 2/12/2016

**Last Amend:** 5/5/2016

**Location:** 5/19/2016-S. T. & H.

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

**Summary:** Current authorizes super ultra-low emission vehicles, ultra-low emission vehicles, partial zero-emission vehicles, or transitional zero-emission vehicles, as specified, that display a valid identifier issued by the Department of Motor Vehicles to use these HOV lanes until January 1, 2019, or until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. This bill would extend the operation of the provisions allowing specified vehicles to use HOV lanes until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first.

**Vote Events:**

05/12/2016 ASM. FLOOR (Y:50 N:19 A:11) (P)

04/27/2016 ASM. APPR. (Y:12 N:6 A:2) (P)

04/04/2016 ASM. TRANS. (Y:14 N:2 A:0) (P)

**AB 1965**

**(Cooper D) Vehicle retirement and replacement.**

**Current Text:** Amended: 5/31/2016 [pdf](#) [html](#)

**Current Analysis:** 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

**Introduced:** 2/12/2016

**Last Amend:** 5/31/2016

**Location:** 6/6/2016-S. RLS.

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

**Summary:** Current law creates an enhanced fleet modernization program for the retirement of high polluting vehicles to be administered by the Bureau of Automotive Repair pursuant to guidelines adopted by the State Air Resources Board. This bill would require the state board, no later than July 1, 2018, and every other year thereafter, to collect and post on the program's Internet Web site specified information on the program. The bill would authorize the state board to allocate moneys, upon appropriation, from specified funds to expand the vehicle replacement component of the program.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:55 N:23 A:2) (P)

05/27/2016 ASM. APPR. (Y:15 N:3 A:2) (P)

04/11/2016 ASM. TRANS. (Y:12 N:3 A:1) (P)

**AB 2090**

**(Alejo D) Low Carbon Transit Operations Program.**

**Current Text:** Amended: 5/27/2016 [pdf](#) [html](#)

**Current Analysis:** 06/02/2016 [Assembly Floor Analysis \(text 5/27/2016\)](#)

**Introduced:** 2/17/2016

**Last Amend:** 5/27/2016

**Location:** 6/2/2016-S. RLS.

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

**Summary:** Current law continuously appropriates specified portions of the annual proceeds in the Greenhouse Gas Reduction Fund to various programs, including 5% for the Low Carbon Transit Operations Program, which provides operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities. This bill would additionally authorize moneys appropriated to the program to be expended to support the operation of existing bus or rail service if the governing board of the requesting transit agency declares a fiscal emergency and other criteria are met, thereby expanding the scope of an existing continuous appropriation.

**Vote Events:**

06/01/2016 ASM. FLOOR (Y:77 N:1 A:2) (P)05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)04/11/2016 ASM.

TRANS. (Y:16 N:0 A:0) (P)

**Notes 1:** Another request for additional money from the GHG Reduction Fund. the bill move off the Suspense file.

[AB 2125](#)  
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**(Chiu D) Healthy Nail Salon Recognition Program.**

**Current Text:** Amended: 5/31/2016 [pdf](#) [html](#)

**Current Analysis:** 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

**Introduced:** 2/17/2016

**Last Amend:** 5/31/2016

**Location:** 6/6/2016-S. RLS.

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

**Summary:** Would require the State Department of Public Health to publish guidelines for cities, counties, and cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs with specified criteria for nail salons, including the use of less toxic nail polishes and polish removers and improved ventilation. The bill would also require the department to develop awareness campaigns, present the guidelines to local health officers, local environmental health departments, and other local agencies, and post specified information on its Internet Web site.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:76 N:4 A:0) (P)

05/27/2016 ASM. APPR. (Y:19 N:1 A:0) (P)

04/12/2016 ASM. E.S. & T.M. (Y:7 N:0 A:0) (P)

03/29/2016 ASM. HEALTH (Y:18 N:0 A:1) (P)

**Notes 1:** A bill dealing with toxic air emissions from finger nails and has Move off the Suspense file and on to the Senate for consideration.

[AB 2206](#)

**(Williams D) Biomethane: interconnection and injection into common carrier pipelines: research.**

**Current Text:** Amended: 5/27/2016 [pdf](#) [html](#)

**Current Analysis:** 05/31/2016 [Assembly Floor Analysis \(text 5/27/2016\)](#)

**Introduced:** 2/18/2016

**Last Amend:** 5/27/2016

**Location:** 6/2/2016-S. RLS.

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

**Summary:** Would request the California Council on Science and Technology to undertake and complete a study analyzing the regional and gas corporation specific issues relating to minimum heating value and maximum siloxane specifications adopted by the Public Utilities Commission for biomethane before it can be injected into common carrier gas pipelines. If the California Council on Science and Technology agrees to undertake and complete the study, the bill would require each gas corporation operating common carrier pipelines in California to proportionately contribute to the expenses to undertake the study with the cost recoverable in rates.

**Vote Events:**

06/01/2016 ASM. FLOOR (Y:78 N:0 A:2) (P)

05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)

04/18/2016 ASM. NAT. RES. (Y:9 N:0 A:0) (P)

04/06/2016 ASM. U. & C. (Y:15 N:0 A:0) (P)

[AB 2223](#)

**(Gray D) Dairy methane reduction.**

**Current Text:** Amended: 5/27/2016 [pdf](#) [html](#)

**Current Analysis:** 05/31/2016 [Assembly Floor Analysis \(text 5/27/2016\)](#)

**Introduced:** 2/18/2016

**Last Amend:** 5/27/2016

**Location:** 6/6/2016-S. RLS.

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

**Summary:** Current law establishes the Department of Food and Agriculture under the administration of the Secretary of Food and Agriculture to promote and protect the agricultural industry of the state. This bill would appropriate \$10,000,000 from the General Fund to the Department of Food and Agriculture to provide loans for the implementation of dairy digesters and other dairy methane reduction projects and management practices.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:76 N:0 A:4) (P)05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)04/13/2016 ASM.

AGRI. (Y:10 N:0 A:0) (P)04/04/2016 ASM. NAT. RES. (Y:8 N:1 A:0) (P)

**Notes 1:** Although originally a request for \$100,000,000 from the GHG Reduction Fund to reduce GHG emissions from Dairy's, now is requesting \$10,000,000 from the General Fund to accomplish the same goals.

**AB 2313**

**(Williams D) Renewable natural gas: monetary incentive program for biomethane projects.**

**Current Text: Amended: 4/26/2016 [pdf](#) [html](#)**

**Current Analysis: 05/13/2016 [Assembly Floor Analysis \(text 4/26/2016\)](#)**

**Introduced: 2/18/2016**

**Last Amend: 4/26/2016**

**Location: 5/23/2016-S. RLS.**

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

**Summary: Would require the Public Utilities Commission to modify the monetary incentive program for biomethane projects so that the total available incentive limitation for a project, other than a dairy cluster biomethane project, as defined, is increased from \$1,500,000 to \$3,000,000. The bill would require the commission to increase the total available incentive limitation for a dairy cluster biomethane project to \$5,000,000 and would require that gathering lines for transport of biogas to a centralized processing facility for the project be treated as an interconnection cost.**

**Vote Events:**

**05/23/2016 ASM. FLOOR (Y:57 N:20 A:3) (P)**

**05/11/2016 ASM. APPR. (Y:14 N:6 A:0) (P)**

**04/20/2016 ASM. U. & C. (Y:9 N:4 A:2) (P)**

**03/31/2016 ASM. RLS. (Y:8 N:0 A:3) (P)**

**AB 2334**

**(Mullin D) Sales and use taxes: exclusion: alternative energy financing.**

**Current Text: Amended: 5/27/2016 [pdf](#) [html](#)**

**Current Analysis: 05/31/2016 [Assembly Floor Analysis \(text 5/27/2016\)](#)**

**Introduced: 2/18/2016**

**Last Amend: 5/27/2016**

**Location: 6/6/2016-S. RLS.**

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

**Summary: The California Alternative Energy and Advanced Transportation Financing Authority Act authorizes, until January 1, 2021, the authority to provide financial assistance in the form of a sales and use tax exclusion for any lease or transfer of title of tangible personal property constituting a project to any participating party, and defines a project and participating party for those purposes. The act limits the sales and use tax exclusion to \$100,000,000 for each calendar year. This bill would expand those persons eligible for the sales and use tax exclusion, which is limited in amount, to additionally include any contractor for use in the performance of a construction contract for the participating party that will use that property as an integral part of the approved project.**

**Vote Events:**

**06/02/2016 ASM. FLOOR (Y:78 N:0 A:2) (P)05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)05/09/2016 ASM.**

**REV. & TAX. (Y:9 N:0 A:0) (P)**

**Notes 1: This use tax exclusion tax bill proposes to modify California tax policy and therefore requires a 2/3 majority to pass.**

**AB 2454**

**(Williams D) Energy: procurement plans.**

**Current Text: Amended: 5/31/2016 [pdf](#) [html](#)**

**Current Analysis: 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)**

**Introduced: 2/19/2016**

**Last Amend: 5/31/2016**

**Location: 6/6/2016-S. RLS.**

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

**Summary: The Public Utilities Act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. This bill would require the electrical corporation, in determining the availability of cost-effective, reliable, and feasible demand reduction resources, to consider the findings of the Demand Response Potential Study required by a specific order of the commission, as specified. This bill contains other related provisions and other existing laws.**

**Vote Events: 06/02/2016 ASM. FLOOR (Y:58 N:20 A:2) (P)05/27/2016 ASM. APPR. (Y:15 N:5 A:0)**

**(P)04/20/2016 ASM. U. & C. (Y:10 N:3 A:2) (P)**

**AB 2460**

**(Irwin D)** Solar thermal systems.

Current Text: Amended: 5/31/2016 [pdf](#) [html](#)

Current Analysis: 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

Introduced: 2/19/2016

Last Amend: 5/31/2016

Location: 6/6/2016-S. RLS.

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

**Summary:** Would revise the solar water heating program to, among other things, promote the installation of solar thermal systems throughout the state, set the maximum funding for the program between January 1, 2017, and July 31, 2022, at \$250,000,000, 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, and extend the operation of the program through July 31, 2022.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:52 N:26 A:2) (P)

05/27/2016 ASM. APPR. (Y:14 N:6 A:0) (P)

04/13/2016 ASM. U. & C. (Y:10 N:3 A:2) (P)

**Notes 1:** This bill originally called for a cap for this program of \$1,000,000,000 and now proposes to reduce the cap to \$250,000,000.

**AB 2564**

**(Cooper D)** Air Quality Improvement Program: Clean Vehicle Rebate Project.

Current Text: Amended: 4/20/2016 [pdf](#) [html](#)

Current Analysis: 05/28/2016 [Assembly Floor Analysis \(text 4/20/2016\)](#)

Introduced: 2/19/2016

Last Amend: 4/20/2016

Location: 6/1/2016-S. RLS.

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 adopt regulations for the purposes of the Clean Vehicle Rebate Project that would establish the maximum gross annual income at specified levels for a person to be eligible for a rebate; increase rebate payments by \$500 for low-income applicants, as defined; include outreach to low-income households; and prioritize rebate payments for low-income applicants. This bill contains other existing laws.

**Vote Events:**

05/31/2016 ASM. FLOOR (Y:80 N:0 A:0) (P)

05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)

04/18/2016 ASM. NAT. RES. (Y:9 N:0 A:0) (P)

**AB 2620**

**(Dababneh D)** Passenger rail projects: funding.

Current Text: Amended: 4/11/2016 [pdf](#) [html](#)

Current Analysis: 05/02/2016 [Assembly Appropriations \(text 4/11/2016\)](#)

Introduced: 2/19/2016

Last Amend: 4/11/2016

Location: 5/19/2016-S. T. & H.

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

**Calendar:** 6/14/2016 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE TRANSPORTATION AND HOUSING, BEALL, Chair

**Summary:** Would reallocate funds allocated pursuant to the Clean Air and Transportation Improvement Act of 1990 that are not expended or encumbered by July 1, 2020, to any other existing passenger rail project with existing rail service. The bill would require the California Transportation Commission to determine the projects pursuant to this reallocation. By reallocating unexpended or unencumbered funds to any other existing passenger rail project, the bill would make an appropriation.

**Vote Events:**

05/12/2016 ASM. FLOOR (Y:78 N:0 A:2) (P)05/04/2016 ASM. APPR. (Y:20 N:0 A:0) (P)04/18/2016 ASM. TRANS. (Y:15 N:0 A:1) (P)

**AB 2653**

**(Garcia, Eduardo D)** Greenhouse Gas Reduction Fund: report.

Current Text: Amended: 5/31/2016 [pdf](#) [html](#)

Current Analysis: 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

Introduced: 2/19/2016

Last Amend: 5/31/2016

Location: 6/6/2016-S. RLS.

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

**Summary:** Current law requires the Department of Finance to annually submit a report to the appropriate committees of the Legislature on the status of the projects funded with moneys from the Greenhouse Gas Reduction Fund. This bill would require the department to include additional information in its annual report to the Legislature, including, among other things, the greenhouse gas emissions reductions attributable to each project and the geographic location, industry sector, and number of employees of the business entities, as defined, receiving moneys from the fund.

**Vote Events:** 06/02/2016 ASM. FLOOR (Y:77 N:0 A:3) (P)05/27/2016 ASM. APPR. (Y:20 N:0 A:0) (P)04/18/2016 ASM. NAT. RES. (Y:9 N:0 A:0) (P)

**Notes 1:** This bill has undergone significant amendments and now basically calls for an audit of greenhouse gas reduction projects funded by the state to determine the success of the project regarding reductions.

**AB 2722**

**(Burke D)** Transformative Climate Communities Program.

Current Text: Amended: 5/31/2016 [pdf](#) [html](#)

Current Analysis: 06/01/2016 [Assembly Floor Analysis \(text 5/31/2016\)](#)

Introduced: 2/19/2016

Last Amend: 5/31/2016

Location: 6/6/2016-S. RLS.

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

**Summary:** Would create the Transformative Climate Communities Program, to be administered by the Strategic Growth Council. The bill would require the council, in coordination with the California Environmental Protection Agency Assistant Secretary for Environmental Justice and Tribal Affairs, to award competitive grants to specified eligible entities for the development of transformative climate community plans, and projects that implement plans, that contribute to the reduction of emissions of greenhouse gases and demonstrate potential climate, economic, workforce, health, and environmental benefits in disadvantaged communities that have a demonstrated need for climate, economic, workforce, health, and environmental benefits.

**Vote Events:**

06/02/2016 ASM. FLOOR (Y:51 N:26 A:3) (P)05/27/2016 ASM. APPR. (Y:14 N:6 A:0) (P)04/18/2016 ASM. NAT. RES. (Y:6 N:3 A:0) (P)

**Notes 1:** Although originally a request for \$250,000,000 from the GHG fund to support GHG reduction efforts in disadvantages communities, the bill now still proposes to provide grant monies for such efforts however does not specify the source of funding.

**AB 2800**

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**(Quirk D)** Climate change: infrastructure planning.

Current Text: Amended: 4/12/2016 [pdf](#) [html](#)

Current Analysis: 05/31/2016 [Assembly Floor Analysis \(text 4/12/2016\)](#)

Introduced: 2/19/2016

Last Amend: 4/12/2016

Location: 6/2/2016-S. RLS.

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

**Summary:** Current law requires the Natural Resources Agency, by July 1, 2017, and every 3 years thereafter, to update the state's climate adaptation strategy to identify vulnerabilities to climate change by sectors and priority actions needed to reduce the risks in those sectors. This bill would require state agencies to take into account the expected impacts of climate change when planning, designing, building, and investing in state infrastructure.

**Vote Events:** 06/01/2016 ASM. FLOOR (Y:59 N:19 A:2) (P)05/27/2016 ASM. APPR. (Y:14 N:6 A:0) (P)04/18/2016 ASM. NAT. RES. (Y:7 N:2 A:0) (P)

**Notes 1:** This bill was significantly amended in April but still deals with infrastructure planning anticipating the implications of climate change on the state's infrastructure.

[AB 2829](#)

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**(Baker R) Carl Moyer Memorial Air Quality Standards Attainment Program.**

**Current Text:** Introduced: 2/19/2016 [pdf](#) [html](#)

**Introduced:** 2/19/2016

**Location:** 5/6/2016-A. DEAD

Dead	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. The program authorizes the state board to provide grants to offset the incremental cost of eligible projects that reduce emissions from covered vehicular sources. The program also authorizes funding for a fueling infrastructure demonstration program and for technology development efforts that are expected to result in commercially available technologies in the near-term that would improve the ability of the program to achieve its goals. This bill would make technical, nonsubstantive changes to these provision.

**Notes 1:** Perhaps the Districts should be relieved that this bill is now dead in that one of its provisions was to terminate the Carl Moyer program in 2024.

[SB 209](#)

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**(Pavley D) Surface mining: financial assurances: reclamation plans.**

**Current Text:** Chaptered: 4/18/2016 [pdf](#) [html](#)

**Current Analysis:** 03/30/2016 [Senate Floor Analyses \(text 3/17/2016\)](#)

**Introduced:** 2/11/2015

**Last Amend:** 3/17/2016

**Location:** 4/18/2016-S. CHAPTERED

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

**Summary:** Would establish the Division of Mine Reclamation within the Department of Conservation under the direction of the Supervisor of Mine Reclamation. The bill also would raise the maximum amount of the annual reporting fee to \$10,000 per mining operation, except as specified. The bill would raise the maximum amount of the total revenue generated from the reporting fee to \$8,000,000, as specified. This bill contains other related provisions and other existing laws.

**Vote Events:** 03/31/2016 SEN. FLOOR (Y:28 N:8 A:4) (P) 03/28/2016 ASM. FLOOR (Y:54 N:20 A:5) (P) 08/27/2015 ASM. APPR. (Y:12 N:4 A:1) (P) 07/13/2015 ASM. NAT. RES. (Y:7 N:1 A:1) (P) 05/28/2015 SEN. FLOOR (Y:25 N:13 A:2) (P) 05/26/2015 SEN. APPR. (Y:5 N:2 A:0) (P) 03/24/2015 SEN. N.R. & W. (Y:7 N:2 A:0) (P)

**Notes 1:** The bill has been signed by the Governor with approval of the mining industry.

[SB 1383](#)

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**(Lara D) Short-lived climate pollutants.**

**Current Text:** Amended: 4/12/2016 [pdf](#) [html](#)

**Current Analysis:** 05/28/2016 [Senate Floor Analyses \(text 4/12/2016\)](#)

**Introduced:** 2/19/2016

**Last Amend:** 4/12/2016

**Location:** 6/2/2016-A. DESK

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, no later than January 1, 2018, to approve and begin implementing that comprehensive strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by 40%, hydrofluorocarbon gases by 40%, and anthropogenic black carbon by 50% below 2013 levels by 2030, as specified.

**Vote Events:** 06/01/2016 SEN. FLOOR (Y:21 N:13 A:6) (P) 05/27/2016 SEN. APPR. (Y:5 N:2 A:0) (P) 04/06/2016 SEN. E.Q. (Y:4 N:2 A:1) (P)

**Notes 1:** Calls for specific reductions in short lived climate pollutants.

**SB 1387**

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**(De León D) Nonvehicular air pollution: market-based incentive programs: South Coast Air Quality Management District board.**

**Current Text: Amended: 4/7/2016** [pdf](#) [html](#)

**Current Analysis: 05/31/2016** [Senate Floor Analyses \(text 4/7/2016\)](#)

**Introduced: 2/19/2016**

**Last Amend: 4/7/2016**

**Location: 6/1/2016-A. DESK**

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

**Summary:** Would require a district board to submit to the State Air Resources Board for review and approval the district's plan for attainment or a revision to that plan, as specified. The bill also would require a district board to submit to the state board for review and approval the district's market-based incentive program and any revisions to that program, as specified. The bill would prescribe specified actions for the state board to take if the state board determines that a plan for attainment, a revision of a plan for attainment, a market-based incentive program, or a revision to a market-based incentive program do not comply with law.

**Vote Events:**

05/31/2016 SEN. FLOOR (Y:22 N:13 A:5) (P)

05/27/2016 SEN. APPR. (Y:5 N:2 A:0) (P)

04/20/2016 SEN. E.Q. (Y:5 N:2 A:0) (P)

**Notes 1:** AB 1387 originally dealt with probate issues and now is an air bill dealing with Air District authority to establish independently market based compliance programs but more specifically calling for the additional of three additional Board members to the South Coast Air Quality Management District. We feel this is in direct response to the termination of Barry Wallerstein as the APCO of the SCAQMD.

**SB 1398**

**(Leyva D) Public water systems: lead pipes.**

**Current Text: Amended: 5/31/2016** [pdf](#) [html](#)

**Current Analysis: 05/31/2016** [Senate Floor Analyses \(text 5/31/2016\)](#)

**Introduced: 2/19/2016**

**Last Amend: 5/31/2016**

**Location: 6/2/2016-A. DESK**

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

**Summary:** Would require a public water system to compile an inventory of lead pipes in use by July 1, 2018, and, after completing the inventory, to provide a timeline for replacement of lead pipes in the system to the State Water Resources Control Board.

**Vote Events:**

06/02/2016 SEN. FLOOR (Y:36 N:0 A:4) (P)

05/27/2016 SEN. APPR. (Y:6 N:1 A:0) (P)

04/20/2016 SEN. E.Q. (Y:6 N:1 A:0) (P)

**SB 1402**

**Dead  
but not dead**

**(Pavley D) Low-carbon fuels.**

**Current Text: Amended: 3/28/2016** [pdf](#) [html](#)

**Current Analysis: 05/09/2016** [Senate Senate Appropriations \(text 3/28/2016\)](#)

**Introduced: 2/19/2016**

**Last Amend: 3/28/2016**

**Location: 5/27/2016-S. DEAD**

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

**Summary:** Would create the California Low-Carbon Fuels Incentive Program to be administered by the state board and the State Energy Resources Conservation and Development Commission, and would authorize moneys in the fund appropriated to the program to be used to provide incentives for the in-state production of low-carbon transportation fuels from new and existing facilities using sustainable feedstock, with priority to be given to projects benefiting disadvantaged communities.

**Vote Events: 04/06/2016 SEN. E.Q. (Y:4 N:0 A:3) (P)**

**Notes 1:** Advocates the use of money from the GHG Reduction Fund to promote in-state manufacture of low-carbon intensity fuels.

**SB 1430** (**Pavley D**) **Vehicular air pollution: greenhouse gas emissions.**

**Dead** **Current Text: Introduced: 2/19/2016** [pdf](#) [html](#)

**but not dead**

**Introduced: 2/19/2016**

**Location: 5/6/2016-S. DEAD**

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

**Summary:** *Would state the intent of the Legislature to enact legislation that would direct the State Air Resources Board to reassert its authority to regulate tail pipe emissions if the upcoming federal midterm review process on fuel economy and greenhouse gas emissions standards results in a weakening of the proposed standards.*

**SB 1441** (**Leno D**) **Natural gas: methane emissions.**

**Dead** **Current Text: Amended: 5/31/2016** [pdf](#) [html](#)

**but not dead**

**Current Analysis: 06/01/2016** [Senate Floor Analyses \(text 5/31/2016\)](#)

**Introduced: 2/19/2016**

**Last Amend: 5/31/2016**

**Location: 6/2/2016-A. DESK**

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

**Summary:** *This bill would, in establishing rates for gas corporations, prohibit the Public Utilities Commission from allowing gas corporations to seek or receive recovery from ratepayers for the value of natural gas lost to the atmosphere during the extraction, production, storage, processing, transportation, and delivery of the natural gas, as specified. This bill contains other current laws.*

**Vote Events:**

06/01/2016 SEN. FLOOR (Y:28 N:11 A:1) (P)

05/27/2016 SEN. APPR. (Y:5 N:2 A:0) (P)

05/16/2016 SEN. APPR. (Y:7 N:0 A:0) (P)

04/20/2016 SEN. E.Q. (Y:5 N:2 A:0) (P)

04/05/2016 SEN. E.,U. & C. (Y:8 N:1 A:2) (P)

**Notes 1:** *This bill was originally crafted in response to the Porter Ranch natural gas leak but has been expanded to specifically deal with reductions in methane emissions associated with the management of natural gas supply infrastructure within California.*

**SB 1453** (**De León D**) **Electrical generation: greenhouse gases emission performance standard.**

**Dead** **Current Text: Introduced: 2/19/2016** [pdf](#) [html](#)

**but not dead**

**Current Analysis: 05/18/2016** [Senate Floor Analyses \(text 2/19/2016\)](#)

**Introduced: 2/19/2016**

**Location: 6/6/2016-A. U. & C.**

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

**Summary:** *Would require the PUC to review any capital expenditure proposed by an electrical corporation for baseload generation that does not comply with the greenhouse gases emission performance standard established by the PUC and to not permit those costs to be recovered in rates if it finds, among other things, that the proposed capital expenditure will materially extend the service life of the baseload generation. This bill contains other related provisions and other existing laws.*

**Vote Events:**

05/26/2016 SEN. FLOOR (Y:26 N:10 A:4) (P)

05/16/2016 SEN. APPR. (Y:5 N:1 A:1) (P)

04/20/2016 SEN. E.Q. (Y:5 N:1 A:1) (P)

04/05/2016 SEN. E.,U. & C. (Y:7 N:0 A:4) (P)

**Notes 1:** *The bill advocates that Utilities not be allow to recover capital expenditure costs for the repair of base-load generation if it is determined that the generating facility does not meet the GHG emission performance standard (1,100 # CO2/ megawatt hour).*

**[SB 1464](#)** (**[De León D](#)**) **California Global Warming Solutions Act of 2006: greenhouse gas emissions reduction.**  
**Dead** **Current Text: Amended: 4/11/2016** [pdf](#) [html](#)  
**but not dead**

**Current Analysis: 05/28/2016** [Senate Floor Analyses \(text 4/11/2016\)](#)

**Introduced: 2/19/2016**

**Last Amend: 4/11/2016**

**Location: 6/6/2016-A. NAT. RES.**

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

**Summary:** *Current law requires the Department of Finance, in consultation with the state board and any other relevant state agency, to develop and update, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund. Current law requires the investment plan to, among other things, identify priority programmatic investments of moneys that will facilitate the achievement of feasible and cost-effective greenhouse gas emissions reductions toward achievement of greenhouse gas reduction goals and targets by sector. This bill would require, in identifying priority programmatic investments, that the investment plan assess how proposed investments interact with current state regulations, policies, and programs, and evaluate if and how the proposed investments could be incorporated into existing programs.*

**Vote Events:**

**05/31/2016 SEN. FLOOR (Y:26 N:5 A:9) (P)**

**05/27/2016 SEN. APPR. (Y:5 N:0 A:2) (P)**

**04/20/2016 SEN. E.Q. (Y:7 N:0 A:0) (P)**

**Total Measures: 40**

**Total Tracking Forms: 40**

## Articles of Interest:

### California Assembly Turns Down Aid For SoCal Gas Victims

Friday, May 6, 2016 | Sacramento, CA | [Permalink](#)

(AP) — Members of the California Assembly rejected a plan to give victims of the Aliso Canyon disaster gas leak and other man-made pollution more time to sue for relief, but the proposal could return.

The Assembly voted 30-32 Thursday on [AB2748](#). Eighteen lawmakers did not vote.

The bill would extend the statute of limitations on toxic harm from two to three years. It would also prohibit polluters from limiting the number of times people can sue them.

Republican opponents say it's too vague and the change shouldn't apply statewide.

Democratic Assemblyman Mike Gatto of Los Angeles asked the Assembly to reconsider his bill. He has until June 3 to bring it back.

Gatto says it would help Southern California residents affected by a shuttered lead-battery recycling facility and Aliso Canyon.

## Dan Walters: California highways leading nowhere

BY DAN WALTERS

*dwalters@sacbee.com*

Driving north from Bakersfield on Highway 99, a motorist soon encounters an offramp onto Highway 65, which runs up the east side of the Central Valley – but not very far. The pavement ends about 70 miles north of Bakersfield, near the farming town of Exeter.

However, 200-plus miles farther to the north, another 35-mile stretch of Highway 65 connects Marysville, north of Sacramento, with Roseville through a region that has seen explosive residential, commercial and industrial growth in the last few decades.

These two widely disconnected pieces of Highway 65 hint at what was once seen as a major north-south route – a twin, so to speak, of Interstate 5, which carries traffic along the Central Valley's west side.

It's also an exemplar of the slowdown, and then virtual halt, in major highway construction that took hold in the 1970s as California's population growth slowed and as liberal opposition to public works merged with conservative dislike of new taxes.

Throughout the state, projects were abandoned, sometimes with pieces of elevated highway left dangling. The paperwork of years, even decades, of complex and often heated local negotiations over routes was filed away and began gathering dust. Land that the state had acquired for projects became choked with weeds, or was sold off for other purposes.

For instance, conflicts over routing a Highway 101 freeway through Eureka had just been resolved, and property had just been acquired when the de facto moratorium was imposed. Four decades later, city streets still are clogged with truck traffic.

The northern section of Highway 65 snuck in under the wire. Under intense political pressure, a young Gov. Jerry Brown authorized its expansion into an expressway to serve high-tech development. But dozens of other projects were left in limbo.

Since then, the state's population has nearly doubled, auto and truck traffic has tripled to more than 300 billion vehicle-miles a year, and the state has developed the nation's worst traffic congestion.

And even though California's fuel taxes are among the nation's highest, Brown – back in the governorship for a second time – is seeking more to deal with a massive backlog of neglected highway maintenance.

Not all of the abandoned projects have been forgotten.

One of the state's longest running highway construction sagas – more than 60 years – is Interstate 710, a north-south route in Los Angeles County that ends abruptly 4.5 miles short of its planned terminus in Pasadena.

Pasadena and the other cities affected by the gap have been squabbling for decades over whether I-710 should be completed, either on the surface or via a tunnel, or left unfinished.

The current legislative session includes a bill sponsored by opponents of completion that would throw a procedural monkey wrench into current efforts to close the gap.

There also is some interest among San Joaquin Valley officials in rekindling the Highway 65 project to relieve pressure on Highway 99, although the source of potential construction money is, to say the least, problematic.

However, Brown's Department of Transportation has drafted a new state transportation plan that, in effect, says California should not add any more carrying capacity into its roadway system and emphasize mass transit instead.

It's a policy that would leave highway-dependent regions such as the east side of the Central Valley still hanging.

Read more here: <http://www.sacbee.com/news/politics-government/politics-columns-blogs/dan-walters/article76114332.html#storylink=cpy>

## **Governor Signs Aliso Canyon Urgency Legislation into Law**

*SB 380 Means New Safeguards to Prevent Future Natural Gas Leaks*

*Tuesday, May 10, 2016 - 16:00*

California Governor Jerry Brown took action today to sign urgency legislation authored by Senator Fran Pavley (*D-Sherman Oaks*) and Principal Co-Author Bob Huff (*R-San Dimas*). **SB 380** addresses a now plugged natural gas leak at the Aliso Canyon gas storage facility, and seeks to implement safeguards so that future leaks can be prevented. Because it is urgency legislation, it will take effect immediately.

"Public safety is government's first priority," said Senator Huff. "Aliso Canyon must never again pose a risk to public health or safety. This bill strikes a balance between maintaining energy reliability in the region and safety."

**SB 380** requires that a rigorous testing protocol developed by scientists at the U.S. Department of Energy's National Laboratories be strictly followed before operations can resume at the site of a massive gas leak. Over a period of four months before it was finally plugged in late February, the leak forced the relocation of more than 8,000 families and spewed nearly 100,000 metric tons of methane into the atmosphere.

"The unchecked release of stockpiled natural gas at the Aliso Canyon gas storage facility and the relocation of thousands of families has forever changed our awareness of the safety measures at Aliso Canyon," said Senator Huff.

The Aliso Canyon natural gas storage facility includes approximately 115 wells, of which 108 are gas storage wells. Of those, 39 were originally drilled in 1954 or earlier. The gas storage facility is the largest gas storage reservoir in the western U.S., holding up to 86 billion cubic feet of natural gas, and provides service to residences, businesses, and electric utilities from Fresno to the Mexican border.

Natural gas supplies delivered through transmission pipelines and gas supplies provided by Aliso Canyon storage facility are both necessary to meet energy demand for 11 million customers.

“Some have been calling for us to ‘shut it all down,’” said Senator Huff. “The truth is we can’t. But we can, and must ensure that as we use natural gas as a foundational energy source in our state, and it cannot come at the expense of public safety. As this bill has moved through the process, it has provided a necessary mechanism of legislative guidance and oversight that underscores our dual commitment to public safety and a reliable source of energy for our residents, businesses, transportation fuels, including critical electric generators for Southern California.”

## California Tax Revenues Fall Below Estimates As Budget Talks Get Under Way

• [Ben Adler](#)

Tuesday, May 10, 2016 | Sacramento, CA | [Permalink](#)

California’s economy is still growing – but at a slower pace than it has been. And that’s having a similar effect on state budget revenues, leaving Gov. Jerry Brown with less money to work with when he releases his updated spending proposal Friday.

Income taxes for the crucial month of April came in \$1 billion below projections. That puts the state nearly \$900 million short of Brown’s estimates this past January – just as the governor puts the finishing touches on his updated budget plan due out later this week.

But Jason Sisney with the non-partisan Legislative Analyst’s Office says that doesn’t mean California’s budget is back in deficit-land.

“Fundamentally, the state enters this new budget much healthier than it has been,” Sisney says, pointing to billions of dollars stashed away in reserve thanks to recent state budgets and the “rainy day fund” voters approved two years ago.

“So revenues would have to drop a lot in order to put the state in a situation where its fiscal condition was dire, and where you would expect to have broad-based cuts,” he adds.

Nevertheless, Brown and state lawmakers may need to curtail their plans this year to prepare for the next recession.

“The trick is, you can’t predict when that will occur,” Sisney says, “so you have to plan ahead.”

The governor has called for placing extra money in reserve and for one-time spending on infrastructure projects. Democratic legislative leaders are expected to seek new funding for programs such as early care and affordable housing.

Brown will release his updated spending proposal (known as the “May Revise”) on Friday morning, marking the traditional start of state budget negotiations ahead of the Legislature's June 15th constitutional deadline.

Brown has called for placing more money in reserve and for one-time spending on infrastructure projects. Democratic legislative leaders are expected to seek new funding for programs such as early care and affordable housing.

## **AQMD board opposes bill to add 'environmental justice' members and urges feds to clean up truck emissions**

**Tony Barboza**

Southern California’s air quality board has come under criticism for a political shift that critics say has made it too friendly to polluting industries. Earlier this week, the state Senate approved a bill aimed at changing the balance.

On Friday, the South Coast Air Quality Management District board pushed back with an attempt to defeat the legislation, which would add three state-appointed “environmental justice” members to its ranks.

The panel voted 7 to 6 to oppose the bill by state Senate Leader Kevin De León (D-Los Angeles) that members of the panel’s Republican majority denounced as a politically motivated power grab.

The bill would expand the AQMD board from 13 to 16 members by adding three representatives from environmental justice organizations, appointed by the governor, the Senate Rules Committee and the Assembly speaker. It would also increase state regulators’ power over the air district’s Regional Clean Air Incentives Market, a pollution-trading program that has come under scrutiny in recent months.

Charged with protecting the health of 17-million people in the region with the nation’s worst smog, the air board currently has 10 locally chosen members and three state appointees.

**This is clearly Sacramento believing that at any time they want,  
they can change a board if they don’t like the outcome of a  
vote.**

— Orange County Supervisor Shawn Nelson

Friday’s vote was along party lines, with seven Republicans voting to oppose SB 1387 over the objections of five Democrats and one independent.

“This is clearly Sacramento believing that at any time they want, they can change a board if they don’t like the outcome of a vote,” said Orange County Supervisor Shawn Nelson, a Republican.

De León reacted in a statement, saying “it’s very disappointing the board does not want representation from communities with the dirtiest air in the nation. They should have a voice.”

The move comes a few months after Republicans took control of the air board and fired longtime executive Barry Wallerstein. The air board also has also come under fire for adopting an oil-industry backed proposal in December to control emissions from refineries and other large facilities under its Regional Clean Air Incentives Market, or RECLAIM, program.

Environmentalists and some state legislators say those maneuvers amount to a takeover aimed at weakening pollution regulation.

Members of the board’s Republican majority have vowed to give greater emphasis to the economic effects of emissions rules. But they say their intentions have been profoundly misunderstood and deny that they’re trying to roll back smog-fighting regulations. On Friday, the air district also released a document showing it has hired a high-profile consultant: former Assembly Speaker John A. Pérez.

The \$60,000, four-month contract authorizes Pérez to advise the agency and to engage with the Legislature and regulatory agencies on its behalf, but prohibits him from lobbying. The contract, signed on March 23 and released in response to a Times inquiry, was not discussed publicly because it was below the \$75,000 threshold requiring approval by the governing board.

AQMD board Chairman William A. Burke said Pérez was hired for crisis management work after the board fired Wallerstein.

In an email, Pérez said he was not working on the De León bill or other legislation. A spokesman added that Pérez was advising AQMD on communications, strategy and “how they can stay true to their original mission.”

In other business, the South Coast air district submitted a petition Friday urging the U.S. [Environmental Protection Agency](#) to adopt tougher tailpipe emissions standards for heavy-duty trucks, a top pollution source.

The AQMD joined 10 other state and local air quality agencies in calling for nation-wide “ultra-low” nitrogen oxide emissions standards that are 90% cleaner than existing rules. “We will review the petition and respond appropriately,” EPA spokesman Nick Conger said. The California Air Resources Board said it is working on its own stricter standards, but they would only cover trucks registered in California.

Without tougher truck standards, the petition says, Southern California will not be able to meet a series of deadlines to cut ozone pollution to federal standards over the next two decades.

The South Coast basin, which includes Los Angeles, Orange, Riverside and San Bernardino counties, has the nation’s highest levels of ozone, the lung-searing gas in smog that is linked to asthma, heart disease and premature deaths. On 113 days last year, its ozone pollution exceeded federal health standards.

## California carbon emission auction proceeds fall short

BY DAN WALTERS

[dwalters@sacbee.com](mailto:dwalters@sacbee.com)

Gov. Jerry Brown and the Legislature got some bad news Wednesday about plans to spend more than \$3 billion in proceeds from the state's "cap-and-trade" auction of carbon dioxide emission allowances.

The results of [last week's quarterly auction](#) were posted and revealed that instead of the \$500-plus million expected from the sale of state-owned allowances, the state will get only about \$10 million, less than 2 percent.

The poor results confirmed reports circulating in financial circles that the cap-and-trade program has begun to stumble. February's auction resulted in some allowances being left unsold – the first time that had happened. Afterward, there was a brisk trade in the secondary market as speculators began dumping their holdings due to uncertainty about the future of the program, which may expire in 2020.

Market followers said the selloff indicated there would be little demand during the May auction, and the results bore out that expectation.

Brown has submitted a plan to spend \$3.1 billion in auction proceeds in 2016-17, both leftover funds from past auctions and an estimated \$2 billion from those during the fiscal year. The plan covers a wide variety of projects and programs, including a major allocation to support the state's high-speed rail project.

This month's auction results cut into that expectation, but whether it's a one-time dip or the harbinger of a more permanent down-market is uncertain.

Department of Finance spokesman H.D. Palmer said the shortfall will reduce the anticipated carryover of cap-and-trade funds into the 2016-17 year but noted that Brown had built a \$500 million cap-and-trade reserve into his budget.

The Air Resources Board offered 67.7 million tons of "current vintage" carbon emissions and another 10.1 million tons of 2019-vintage emissions at a reserve price of \$12.73 a ton. Utilities owned some of them, as did the state's trading partner, Quebec, but the ARB offered 35.6 million tons of its current allowances and 8.7 million 2019 tons.

None of the state's current allowances was sold and only 1.4 million of its 2019 allowances, generating about \$10 million in state proceeds.

Dan Walters: [916-321-1195](tel:916-321-1195), [dwalters@sacbee.com](mailto:dwalters@sacbee.com), [@WaltersBee](https://twitter.com/WaltersBee)

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

*AGENDA ITEM 8*

**DATE:** June 27, 2016

**RECOMMENDATION:** Conduct a Continued Public Hearing to receive comments and staff presentation for the proposed MDAQMD Budget for FY 2016-17: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Adopt a resolution approving and adopting the budget for FY 2016-17.

**SUMMARY:** The budget for Fiscal Year 2016-17 is presented to the Governing Board for adoption effective July 1, 2016.

**CONFLICT OF INTEREST:** None

**BACKGROUND:** The proposed MDAQMD Budget for Fiscal Year 2016-17 is a spending plan to perform the District's services, activities, and projects and identifies the revenues estimated to be available to the District for those purposes. A proposed budget summary and supporting documentation was prepared and made available in accordance with the 30 day Public Notice Requirement of Health and Safety Code §40131(a)(1). All permit holders within the Mojave Desert AQMD area who were subject to fees during the prior fiscal year were properly notified of the availability of the information (pursuant to H&S §40131(a)(2)). A separate Public Hearing for the exclusive purpose of reviewing the budget and taking public comment, as required by H&S § 40131(a)(3), was held May 23, 2016.

**FY 17 Budget Summary:**

- The Proposed Budget for all funds is nearly \$8.5 million dollars (\$8,467,194) with \$22,492 undesignated
- The Proposed Budget for Operating Expense (All Funds) is reduced from FY 16 budget by \$278,587 through a variety of expense cuts
- The Proposed Budget for Revenue (All Funds) is projected to increase \$150,823 due in part to a proposed 3% increase on fees
- The Proposed General Fund Budget is nearly \$7 million dollars (\$6,975,416) and is expected to draw upon District's reserves up to \$29,508 to achieve the objectives, if such action is required. A Budget Stabilization fund is part of District's fund balance allocations
- The Proposed Budget for General Fund Operating Expenses are reduced \$257,182 from FY 16 budget through a variety of expense cuts

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

*AGENDA ITEM 8*

**PAGE 2**

**REASON FOR RECOMMENDATION:** Health and Safety Code §40130 et seq. requires that Districts adopt an annual budget which enables the District to administer the services, activities and projects according to plans set forth in the budget for the fiscal year.

**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 June 13, 2016.

**FINANCIAL DATA:** The FY 2016-17 Budget for expenses (all funds) totals \$8,467,194 with anticipated revenues of \$8,489,686. The General Fund Balance has been designated for Operating Cash Reserves \$690,000; for Building Improvement Reserves \$200,000; Legal and Litigation Reserves \$300,000; and Retirement Reserves \$1,000,000. Additional designations have been made for Long Term Receivables \$960,801; Budget Stabilization \$250,000; and Compensated Absences \$150,000.

**PRESENTER:** Jean Bracy, Deputy Director/Administration

**RESOLUTION NO.**

**A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT APPROVING AND ADOPTING THE PROPOSED OPERATING BUDGET FOR FISCAL YEAR 2016-17.**

On June 27, 2016, on motion by Member \_\_\_\_\_, seconded by Member \_\_\_\_\_, and carried, the following resolution is adopted:

**WHEREAS**, the Air Pollution Control Officer has submitted to the Governing Board an annual budget for the Mojave Desert Air Quality Management District (MDAQMD) for the fiscal year 2016-17; and

**WHEREAS**, a proposed budget summary and supporting documentation were prepared and made available in accordance with the 30 day Public Notice requirement (Health and Safety Code §40131 (a)(1)); and

**WHEREAS**, all persons within the District area who were subject to fees during the prior fiscal year were properly notified of the availability of the information (Health and Safety Code §40131 (a)(2)); and

**WHEREAS**, a separate Public Hearing for the exclusive purpose of reviewing the budget and taking public comment, as required by Health and Safety Code §40131(a)(3), was held on May 23, 2016 and continued to June 27, 2016; and

**WHEREAS**, the annual budget contains estimates of the services, activities and programs comprising the budget, and contains expenditure requirements and their resources available to the MDAQMD; and

**WHEREAS**, the expenses for all funds for fiscal year 2016-17 are \$8,467,194.00 (Eight Million, Four Hundred Sixty Seven Thousand, One Hundred Ninety Four Dollars);

**WHEREAS**, the revenue projected from all funds for fiscal year 2016-17 is \$8,489,686.00 (Eight Million Four Hundred Eighty Nine Thousand, Six Hundred Eighty Six Dollars); and

**WHEREAS**, the annual budget will enable the MDAQMD Governing Board to make adequate financial plans and will ensure that the MDAQMD officers can administer their respective functions in accordance with such plans,

\\

**RESOLUTION NO.**

1 **NOW, THEREFORE, BE IT RESOLVED**, by the Governing Board of the Mojave Desert  
2 Air Quality Management District, the following:

3       The annual budget for the MDAQMD for the fiscal year 2016-17 is hereby approved  
4 and adopted, and the amounts of proposed expenditure and revenue, as specified, are  
5 appropriate for the account classifications as herein specified.

6       A. The 2016-17 Budget (all funds) for expenses is hereby adopted, establishing the  
7 following:

<u>ACCOUNT CLASSIFICATION</u>	<u>2016-17 ADOPTED BUDGET</u>
9       Personnel Expenses	\$5,936,624
10       Operating Expenses	2,327,570
11       Capital Expenses	<u>203,000</u>
12 <b>TOTAL EXPENSE BUDGET</b>	<b>\$8,467,194</b>

13       B. The 2016-17 Budget for revenue is hereby adopted, establishing a revenue base for the  
14 expenditures noted above:

<u>ACCOUNT CLASSIFICATION</u>	<u>2016-17 ADOPTED BUDGET</u>
16       Permit Fees	\$4,320,000
17       Application Fees	104,768
18       Federal Revenue	130,950
19       Fine & Penalties	45,000
20       Interest Income	104,900
21       Other Revenue	1,300,000
22       Revenue from Programs	2,294,578
23       State Revenue	<u>189,490</u>
24 <b>TOTAL REVENUE BUDGET</b>	<b>\$8,489,686</b>

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**RESOLUTION NO.**

1 **BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately  
2 upon adoption.

3 PASSED, APPROVED AND ADOPTED by the Governing Board of the Mojave  
4 Desert Air Quality Management District by the following vote:

5 AYES: MEMBER:

6 NOES: MEMBER:

7 ABSENT: MEMBER:

8 ABSTAIN: MEMBER:

9  
10 STATE OF CALIFORNIA )  
 )  
11 ) ss:  
12 COUNTY OF SAN BERNARDINO )

13 I, \_\_\_\_\_, Clerk of the Governing Board of the Mojave Desert Air  
14 Quality Management District, hereby certify the foregoing to be a full, true and correct copy  
15 of the record of the action as the same appears in the Official Minutes of said Governing  
16 Board at its meeting of June 27, 2016.

17 \_\_\_\_\_,  
18 Clerk of the Governing Board  
19 Mojave Desert Air Quality Management District.

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## FY 17 BUDGET HIGHLIGHTS

FY 16 End of Year Estimates	FY 17 Proposed Budget
<p><b>Revenue (page 5-6)</b></p> <ul style="list-style-type: none"> <li>• <b>Annual permit revenue</b> is estimated to fall short of budget expectations by \$38,800, less than 1%. This performance is in spite of permit cancellations estimated to be about \$90,000. This cancellation amount is not out of the ordinary.</li> <li>• <b>Application fees</b> are collected on demand as permits are required. The increase in revenue reflects activity mostly with demolition and asbestos inspections.</li> <li>• <b>Fines and Penalties</b> are not used to balance the District’s budget and are assessed as needed to support the enforcement of regulations. Estimates indicate revenue less than budgeted. The budgeted amount of \$60,000 represents 1.4% of the budgeted revenue for annual permit fees.</li> <li>• The <b>Revenue from Programs</b> budget appears to have performed poorly, but for the following notations: <ul style="list-style-type: none"> <li>– The FY 16 Budget incorrectly included revenue from the <b>Carl Moyer program</b>, causing an overstatement of revenue by \$66,000.</li> <li>– <b>AB 2766</b> actually outperformed expectations, which has been unusual in recent years, delivering a 4.4% increase estimated to be \$32,000. This \$4 fee is assessed on every vehicle registered in the District’s jurisdiction. The District’s General Fund receives \$2 of that fee for activities and programs that support the Mobile Emissions Reduction Program. Of the remaining amount \$1 is directed to the District’s grant program, and \$1 is distributed proportionately to the member agencies for their use supporting mobile emissions reduction activity in their jurisdiction.</li> <li>– The District invoices on behalf of the ARB a fee allowable under the <b>California Clean Air Act</b> to the District’s largest facilities; the District keeps an administrative fee based on the amount of the invoice.</li> <li>– <b>Hot Spots</b>, also known as the Toxic Emissions Inventory, and invoices to specific permit holders for the purpose of maintaining an inventory of specific air toxics.</li> </ul> </li> </ul> <p><b>Other Revenue (Contracts)</b> reflects the revenue derived from the</p>	<p><b>Revenue (page 5-6)</b></p> <p>The projections for the District’s total General Fund Revenue are an increase of 0.66% over the FY 16 Budget. The expected revenue of \$6,945,908 is nearly a 2% increase over the estimated year end revenue for FY 16, due to the proposed fee increase and projected increase in AB 2766.</p> <p><b>Fee Increase.</b> This Budget includes a recommended 3% increase on all fees, which is expected to increase permit-related revenue about \$128,000. Fee recommendations are calculated to recover direct costs associated with permit related activities.</p> <p>Total estimated increase for personnel costs for FY 17:       \$268,000</p> <p>Percentage of personnel costs attributable to permit activities (84%):  <span style="float: right;">\$158,663</span></p> <p>A 3% increase is expected to generate:                               \$128,086</p> <p>All other revenue sources are expected to be near FY 16 levels.</p>

## FY 17 BUDGET HIGHLIGHTS

FY 16 End of Year Estimates	FY 17 Proposed Budget
<p>District’s contract with <b>Antelope Valley AQMD</b>. Reduction in revenue for FY 16 (\$21,000) reflects operational expenses anticipated but not required. Charges for staff were invoiced in full.</p> <ul style="list-style-type: none"> <li>• <b>State revenue</b> is derived from a State General Fund allocation called “<b>Subvention</b>.” This tends to be relatively stable year to year. The <b>PERP</b> (Portable Equipment Registration Program) fee is our administrative work performed for state issued permits to equipment that is portable and subject to the thresholds for permit and compliance inspections. These permits are issued on 3 year cycles; revenue cycles accordingly.</li> </ul>	
<p><b><u>Personnel Expenses (page 40)</u></b></p> <p>End of year estimates indicate under budget performance in the amount of nearly \$330,000, nearly 6%. A budget savings should be expected resulting from a position left unfilled for half of the fiscal year. After our review of the preparation of FY 16 budget we discovered inaccurate estimates caused an extraordinary estimate for Personnel Expenses. The personnel component of the accounting system was initiated during 2015, during the preparation of the FY 16 budget. The variety of data sources contributing to the actual costs and estimates caused inaccuracies. Fortunately, the calculation error is favorable to the District’s overall budget performance. Personnel costs comprise nearly 87% of the District’s Operating Budget.</p>	<p><b><u>Personnel Expenses (page 40)</u></b></p> <p>As noted previously, the prior fiscal year Budget was overestimated by \$330,000. This Budget anticipates personnel costs to increase 4.6% for the normal cost of conducting the District’s business, about \$258,000. The FY 17 Budget is 1.2% reduced from FY 16 Budget, and 4.6% above FY 16 year end estimates.</p> <p>One position is budgeted and will be recruited after the start of the fiscal year.</p> <p><b>Labor Negotiations.</b> This budget does not anticipate any outcome from labor negotiations that increase or reduce the budget requirements. Costs associated with a negotiated Memorandum of Understanding may require an amendment to the Budget.</p>

## FY 17 BUDGET HIGHLIGHTS

FY 16 End of Year Estimates	FY 17 Proposed Budget
<p><b><u>Operating Expenses</u></b> <i>(summary pages 41-43, graph page 39)</i></p> <p>Estimates indicate the District will spend under budget about 16%, which could change with the results of the final quarter of the fiscal year. The variances occur across the budget line items.</p> <ul style="list-style-type: none"> <li>• <b>Communications</b> includes software and related upgrades and maintenance, phone, video conferencing, internet and web hosting.</li> <li>• <b>Dues and subscriptions</b> includes: <ul style="list-style-type: none"> <li>– <b>Memberships and sponsorships</b> to California Air Pollution Control Officers Association (CAPCOA); California Special Districts Association (CSDA); Air &amp; Waste Management Association (AWMA), Victor Valley Community College President’s Circle, Association of Air Pollution Control Agencies (National), and a number of local or community associations.</li> <li>– <b>Publications &amp; Subscriptions</b> includes West Law to support District Counsel, local media publications, booklets and volumes related to elected officials and air pollution control laws, EPA publications.</li> <li>– <b>Professional Dues</b> is a budget category where employees charge their membership dues for up to two professional organizations. This is a negotiated benefit which is budgeted as a personnel expense benefit causing the expense to appear to be over budget. These categories will be reworked for the FY 17 Budget.</li> </ul> </li> <li>• <b>Non Depreciable Inventory</b> budgets for small equipment and non-capital furniture. Allowances are budgeted for unanticipated needs.</li> <li>• <b>Legal</b> – During the year the District experienced intense activity with outside legal services.</li> <li>• <b>Maintenance &amp; Repairs</b> is expected to exceed budget mostly due to two conditions in the Air Monitoring section: 1) changing equipment from filter based to continuous monitoring; and 2) suggestions from ARB prompted some equipment changes and adjustments. Generally, increased activity will generate increase costs.</li> <li>• <b>Training and Travel</b> estimates staff needs for training throughout the year. This is the budget area where tuition reimbursement is budgeted. The District budgets as negotiated about \$11,000 each year, often an amount remains unspent.</li> <li>• <b>Vehicle</b> cost savings were achieved through lower fuel costs, by a scheduled delay in leasing three replacement vehicles, and delaying the lease of a fourth vehicle. A van for</li> </ul>	<p><b><u>Operating Expenses</u></b> <i>(summary pages 41-43, graph page 39)</i></p> <p>The Operating Budget recommendations reduce line items in total 16% from the prior year budget; yet overall the recommendations are a 4% increase from the estimated expenditures in FY 16. In particular, Legal and Professional Services budgets have been reduced. There remain allowances for various expense needs of the District.</p> <p>Allowances include:</p> <ul style="list-style-type: none"> <li>• Continuing contributions to Interstate Clean Transportation Corridor \$25,000</li> <li>• Continuing contributions to MEEC for environmental education \$90,000</li> <li>• Consulting fees as needed, particularly for air quality matters (\$50,000)</li> <li>• Financial audit and actuarial services \$20,000</li> <li>• Annual Lawnmower exchange event \$50,000</li> </ul> <p>There are no extraordinary operating expenses anticipated for FY 17.</p>

## FY 17 BUDGET HIGHLIGHTS

FY 16 End of Year Estimates	FY 17 Proposed Budget
<p>Community Relations should have been replaced in FY 16 and is being budgeted to purchase in FY 17.</p> <ul style="list-style-type: none"> <li>• <b>Office expenses</b> include software, supplies, equipment and facility leases (air monitoring remote sites), postage, printing, insurance, and meeting expenses. Cost savings may be realized across any or all of 12 line items for anticipated but not required items.</li> <li>• <b>Program Expenses</b> are contributions the District makes to MEEC (\$90,000) and the lawnmower exchange program. Unspent budget may relate directly to the performance of the lawnmower exchange event. In the Consolidated Budget of all funds (<i>pages 4 and 52</i>), this area addresses all of the revenue and expenses associated with the District’s restricted grant and special funds.</li> <li>• <b>Professional Expenses</b> indicate a possible under budget performance mostly due allowance made but not utilized. This area includes expenses related to the professional consulting used to address workplace tensions, organizational review, and recruitment. In addition, funds were reserved for some air quality modeling (burn analysis), board member stipends for a maximum number of meetings. An amount is usually budgeted here anticipating any number of opportunities to model or test assumptions about air quality conditions. Our estimates here may not meet expectations.</li> </ul>	
<p><b><u>Capital Expenses</u></b></p> <p>The District’s plan for capital expenditures was adjusted as quotes for anticipated projects exceeded the budget estimates. During the year we sealed the parking lot, purchased and installed security cameras, and purchased and installed several sit/stand workstation lifts to address ergonomic needs. The waterproofing coating for the roof was delayed. Available budget was used to purchase desktop computers to meet the District’s equipment replacement schedule for this year and FY 17. All of the budget was used to support the District’s permit/application software, CAPS.</p>	<p><b><u>Capital Expenses</u></b></p> <p>The District anticipates capital needs for FY 17 in the amount of \$203,000, a 3.5% reduction from FY 16. Allowances are included for permitting software (CAPS) improvements (\$63,000), replace one vehicle (\$25,000), air monitoring equipment (\$50,000), painting the roof with reflective/water resistant paint (\$15,000), safety improvements (\$10,000), and a replacement server and rebuild the District’s website (\$40,000).</p>

# Proposed Budget

## Fiscal Year 2016-17

June 27, 2016



**“Clean Air is *Everybody’s* Business”**

Mojave Desert Air Quality Management District  
14306 Park Avenue, Victorville, CA 92392-2310  
760.245.1661 • fax 760.245.2699  
<http://www.mdaqmd.ca.gov>

Eldon Heaston, Executive Director

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## Mojave Desert Air Quality Management District

14306 Park Avenue, Victorville, CA 92392-2310

760.245.1661 • fax 760.245.2699

Visit our web site: <http://www.mdaqmd.ca.gov>

Eldon Heaston, Executive Director

April 21, 2016

Governing Board of the  
Mojave Desert Air Quality Management District

This is the proposed budget of the Mojave Desert Air Quality Management District for Fiscal Year 2016-17. This document recommends uses of resources for the required, necessary and desired services as established by this Governing Board and various Federal, State, and local regulations. A budget is designed to provide the Board and staff the tool from which sound fiscal management decisions may be made.

A Public Hearing will be held May 23, 2016, and will be continued to June 27, 2016 to receive public comments concerning this proposed budget.

The Consolidated Budget (accounting for all funds) includes projected revenues and proposed expenses for all MDAQMD activity, including the grant programs. Specifically, the General Fund revenue is projected to be \$6,945,908, less than one percent (.66%) increase from the prior fiscal year. This budget includes a recommended increase to Regulation III, Fees, proposing a 3% fee increase effective January 1, 2017. If executed as presented this budget is expected to perform with positive results in the amount of \$22,500.

The General Fund expenses projected for operations and capital expenditures are \$6,975,416. This amount reflects an overall decrease of 3.6% from the budget for the prior fiscal year imposing cuts to operational expenditures. The budgeted expenditures include continuing projects to help streamline government and regulatory functions.

The MDAQMD is a service agency in which personnel expenses will comprise about 87% of the operations budget. The Table of Organization for FY 17 includes the total of 40 positions of full time employees. The budget for Personnel Expenses includes no change for retirement contributions made for District employees during next fiscal year.

Governing Board Policy 02-01 requires adequate reserves for operating expenses. This budget funds the Committed Fund Balance, Operating Reserves to the policy limit. This budget assigns a portion of the fund balance for building improvements, for anticipated legal and litigation costs associated with ongoing CEQA challenges, and budget stabilization. It also assigns a portion to be used to address the District's future retirement obligations.

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This budget represents a financial plan to meet this year's obligations and challenges and is proposed to be effective July 1, 2016. On behalf of the management and staff of the District, this budget is presented for consideration for the Fiscal Year 2016-17.

Sincerely,

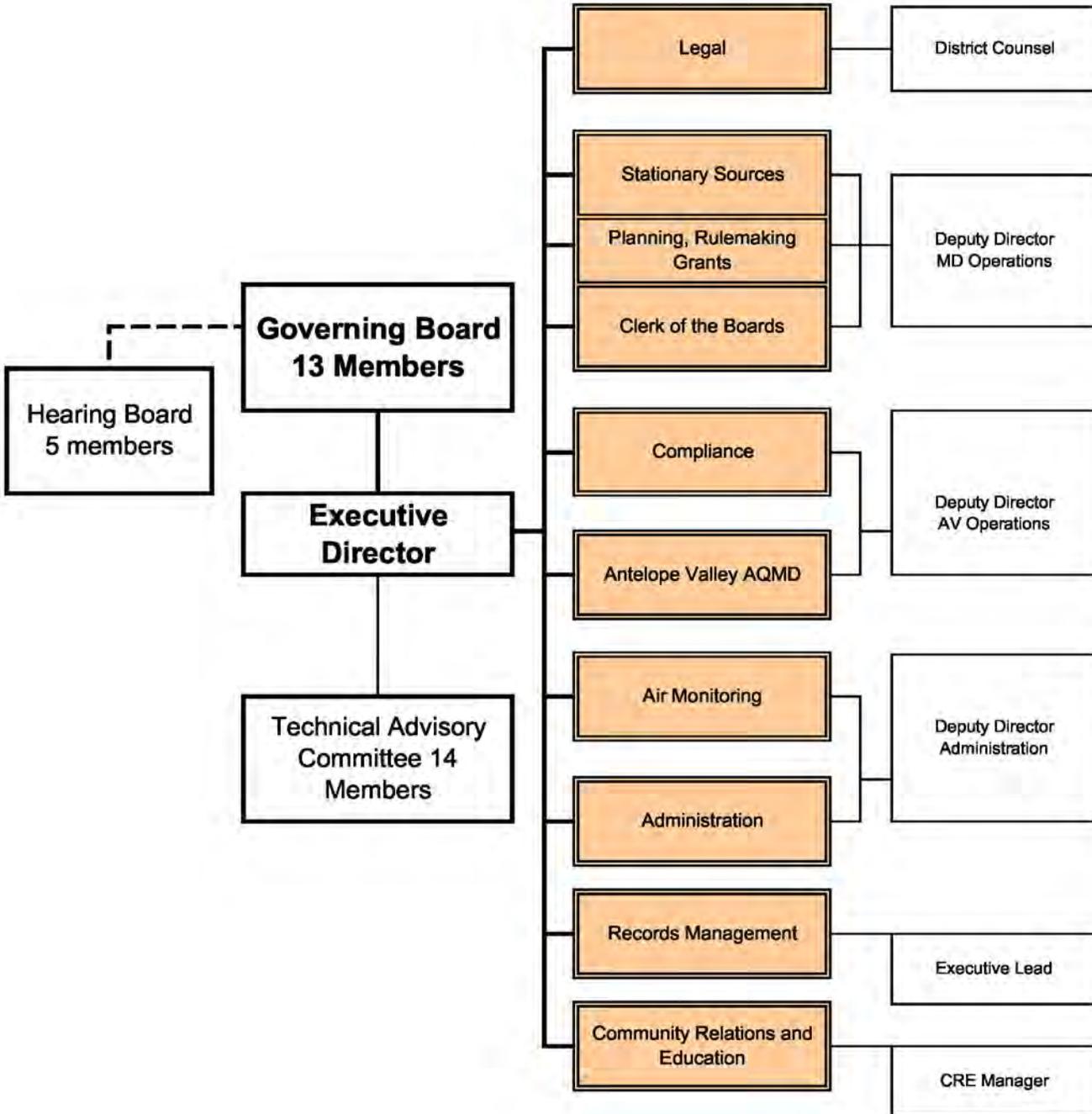
Eldon Heaston  
Executive Director/APCO

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# Mojave Desert Air Quality Management District

## District Organization





# *Governing Board 2016*

Robert Lovingood, *Chair  
Supervisor*  
County of San Bernardino

Jim Cox, *Vice Chair*  
City of Victorville

Ed Camargo,  
City of Adelanto

Barb Stanton  
Town of Apple Valley

Carmen Hernandez  
City of Barstow

Joseph "Joey" DeConinck  
City of Blythe

Jeff Williams  
City of Needles

John Cole  
City of Twentynine Palms

Robert Leone  
Town of Yucca Valley

Paul Russ  
City of Hesperia

John Benoit, *Supervisor*  
County of Riverside

James Ramos, *Supervisor*  
County of San Bernardino

Barbara Cram Riordan  
Public Member

## ***Executive Staff***

Eldon Heaston  
Executive Director

Karen K. Nowak  
District Counsel

Jean Bracy, Deputy Director  
Administration

Alan De Salvio, Deputy Director  
Mojave Desert Operations

Bret Banks, Deputy Director  
Antelope Valley Operations

Michele Baird  
Clerk of the Boards

## Mojave Desert Air Quality Management District Jurisdiction

Our district encompasses the desert portion of northern San Bernardino County, as well as the Palo Verde Valley in Riverside County. Our boundaries cover the area from the summit of Cajon Pass to Inyo County, east to the Colorado River and the Arizona and Nevada state lines, and westward to Los Angeles and Kern County Lines. In all, our district covers approximately 21,000 square miles.

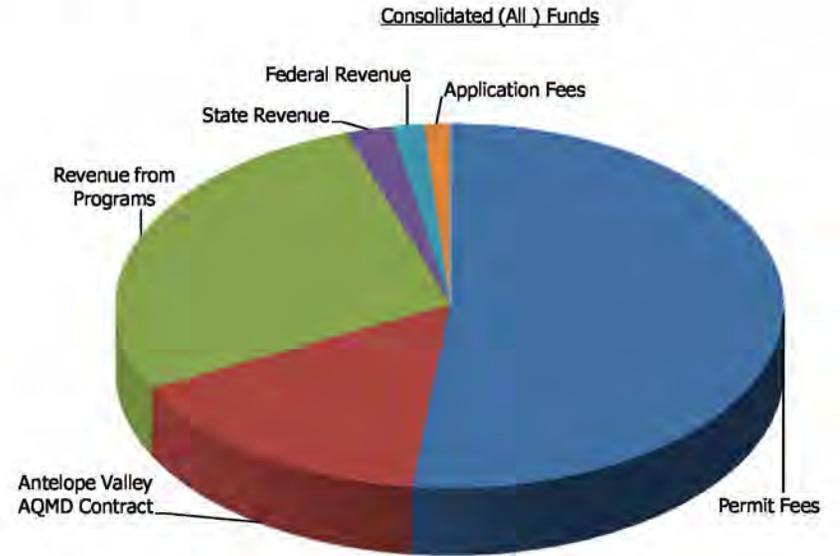
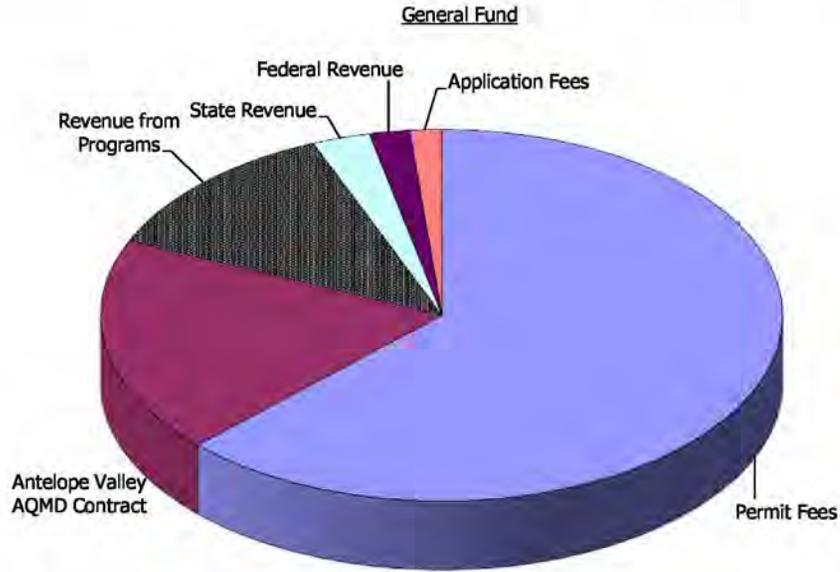
*Map not to scale*



## Mojave Desert AQMD Consolidated Budget (All Funds)

	Adopted Budget FY 2016	End-of-Year Estimates FY 2016	Proposed Budget FY 2017
<b>Revenues</b>			
Permit Fees	4,240,000	4,201,196	4,320,000
Application Fees	89,850	100,524	104,768
Federal Revenue	131,615	130,490	130,950
Fines & Penalties	60,000	41,295	45,000
Interest Income	55,150	24,802	104,900
Other Revenue	1,314,715	1,293,493	1,300,000
Revenue from Programs	2,267,533	2,268,587	2,294,578
State Revenue	180,000	189,298	189,490
<b>Total Revenues</b>	<b>8,338,863</b>	<b>8,249,685</b>	<b>8,489,686</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries & Wages	3,595,300	3,399,799	3,630,211
Payroll Taxes	113,883	79,570	86,428
Benefits	659,935	551,695	593,631
Retirement	1,565,855	1,575,036	1,608,354
OPEB	23,000	18,000	18,000
<b>Total Personnel Expenses</b>	<b>5,957,973</b>	<b>5,624,100</b>	<b>5,936,624</b>
<b>Operating Expenses</b>			
Communications	55,300	55,966	58,460
Dues & Subscriptions	27,275	36,947	48,100
Non-Depreciable Inventory	34,325	15,623	24,500
Legal	115,700	116,262	45,000
Maintenance & Repairs	53,775	67,012	75,925
Training & Travel	80,650	60,978	82,600
Vehicles	79,800	65,181	85,400
Office Expenses	206,700	177,832	206,025
Program Expenses	1,529,183	1,551,111	1,555,620
Professional Services	320,100	163,780	139,400
Miscellaneous Expenses	5,000	6,615	6,540
<b>Total Operating Expenses</b>	<b>2,507,808</b>	<b>2,317,307</b>	<b>2,327,570</b>
<b>Capital Expenses</b>			
Buildings	40,000	26,021	15,000
Equipment	65,000	71,469	60,000
Vehicles	0	0	25,000
Computers	50,000	56,609	40,000
Software	125,000	128,901	63,000
<b>Total Capital Expenses</b>	<b>280,000</b>	<b>283,000</b>	<b>203,000</b>
<b>Total Expenses</b>	<b>8,745,781</b>	<b>8,224,407</b>	<b>8,467,194</b>
<b>Due To (From) Reserves</b>	<b>(406,918)</b>	<b>25,278</b>	<b>22,492</b>

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
Budgeted Sources of Revenue**



**General Fund Revenue**      FY 2017

REVENUE TYPES	AMOUNT	% of Total
Permit Fees	4,320,000	62.19%
Antelope Valley AQMD Contract	1,300,000	18.72%
Revenue from Programs	847,000	12.19%
State Revenue	189,490	2.73%
Federal Revenue	130,950	1.89%
Application Fees	104,768	1.51%
Fines & Penalties	45,000	0.65%
Interest Revenue	8,700	0.13%
<b>TOTAL</b>	<b>6,945,908</b>	<b>100.00%</b>

**Consolidated (All Funds) Revenue**      FY 2017

REVENUE TYPES	AMOUNT	% of Total
Permit Fees	4,320,000	50.89%
Antelope Valley AQMD Contract	1,300,000	15.31%
Revenue from Programs	2,294,578	27.03%
State Revenue	189,490	2.23%
Federal Revenue	130,950	1.54%
Application Fees	104,768	1.23%
Fines & Penalties	45,000	0.53%
Interest Revenue	104,900	1.24%
<b>TOTAL</b>	<b>8,489,686</b>	<b>100.00%</b>

# Mojave Desert AQMD

## General Fund Budget Revenue Detail

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Revenues</u></b>			
<b><u>Permit Fees</u></b>			
Permit Fees Rev	3,900,000	3,900,423	4,010,000
Asbestos Demo/Reno Rev	55,000	24,946	25,000
Title V Rev	285,000	275,827	285,000
	<u>4,240,000</u>	<u>4,201,196</u>	<u>4,320,000</u>
<b><u>Application Fees</u></b>			
ERC Application Fees	600	200	575
New Source Review Fees	6,500	6,500	6,500
Permit Application Fees	80,000	93,294	96,093
Variance Filing Fees	750	0	0
AG Application Fees	2,000	530	1,600
	<u>89,850</u>	<u>100,524</u>	<u>104,768</u>
<b><u>Federal Revenue</u></b>			
ARB PM 2.5 Section 103	21,200	20,643	21,200
Section 105 (PSD)	85,415	84,847	84,850
Federal Contracts & Agreements	25,000	25,000	24,900
	<u>131,615</u>	<u>130,490</u>	<u>130,950</u>
<b><u>Fines &amp; Penalties</u></b>			
Notice of Violations Fee	60,000	41,295	45,000
	<u>60,000</u>	<u>41,295</u>	<u>45,000</u>
<b><u>Interest Income</u></b>			
Interest Revenue	7,500	8,700	8,700
	<u>7,500</u>	<u>8,700</u>	<u>8,700</u>
<b><u>Other Revenue</u></b>			
Contracts	1,314,715	1,293,493	1,300,000
	<u>1,314,715</u>	<u>1,293,493</u>	<u>1,300,000</u>
<b><u>Revenue from Programs</u></b>			
AB2766 Program	730,000	761,860	762,000
Carl Moyer Program	66,000	0	0
California Clean Air Act	65,000	69,577	70,000
Hot Spots	16,000	14,757	15,000
	<u>877,000</u>	<u>846,194</u>	<u>847,000</u>
<b><u>State Revenue</u></b>			
PERP	40,000	51,690	51,690
State Subvention	140,000	137,608	137,800
	<u>180,000</u>	<u>189,298</u>	<u>189,490</u>
<b>Total General Fund Revenues</b>	<b><u>6,900,680</u></b>	<b><u>6,811,190</u></b>	<b><u>6,945,908</u></b>

## **INTRODUCTION**

The District's approach to air quality regulations is to be responsible and approachable with attention to customer service. While the revenue sources are sufficient for maintaining this kind of agency, growth and new programs demand that the District continue to strive to streamline government, become more efficient, and conserve resources without limiting or decreasing the service provided to the regulated community and the public at large.

## **DISTRICT PROGRAMS AND PROJECTS**

### ▪ **Community Outreach**

Through community events, school education programs, publications, and business opportunity forums, the District promotes the motto: "*Clean Air is Everybody's Business.*" Raising public awareness is a primary District responsibility in order to foster community behaviors that protect local air quality. The District will continue to provide direct support and in-kind services to **MEEC – Mojave Environmental Education Consortium**, a public-private non-profit partnership providing environmental education support to local schools.

### ▪ **Daily Air Quality Status & Forecasts:**

The District's website, <http://www.mdaqmd.ca.gov/>, continues to provide the public with up-to-the-minute information on ozone levels within the MDAQMD's jurisdictional boundaries, in a user-friendly format.

### ▪ **The District Website**

Providing information to the general public may be the most important investment the District can make to impact the future of air quality for the region. Using the internet allows the District to provide the public with the latest version of the District rule book, forms, and air quality information. The District's website is <http://www.mdaqmd.ca.gov/>.

### ▪ **Small Business Assistance Program**

Through the Breathe Easy Program, small businesses can obtain individualized help regarding compliance with District rules. This program also provides no-fault compliance audits, permitting assistance, training, produces informative brochures, and advocates small business concerns for proposed regulations. The Business Assistance Hotline is available for personalized assistance related to compliance without fear of reprisals.

### ▪ **Mobile Emissions Reduction Program**

This grant program encourages projects sponsored by private or public agencies that will reduce the impact of pollution generated by mobile emissions in the Mojave Desert air basin. Funded by fees assessed on motor vehicle registration in the District more than three million dollars has been awarded to various public agencies and private entities for projects that will reduce mobile emissions such as through the use of alternate fuels, equipment and other related projects.

Carl Moyer Memorial Air Quality Standards Attainment Program (known as the Carl Moyer Program) funds the incremental cost of cleaner-than-required engines, equipment, and other sources of air pollution. Implementing the State-funded Carl Moyer Program, the District has received and awarded more than four million dollars to local agencies and private entities' eligible projects.

- **Technology Improvements** bring together an overall plan that strives to streamline government and efficiently deliver services. The **CAPS** (Compliance and Permit System) Database is the application that holds all of the information related to every source responsible to the District's Rules and Regulations. The **Records Management** program manages the content management system which images, indexes and stores District records. Another component electronically develops the Governing Board agenda. **AccuFund** serves our accounting needs through use of cost accounting methodology and appropriate reporting on the use of restricted funds. Our **Video Tele-conferencing** delivers high performance multi-point video conferencing for small and large groups.
- **Training and Development**  
Emphasis is on educating staff and the Governing Board about the work and mission of the District. District staff will participate in on site educational opportunities and off-site educational tours and are encouraged to continue their technical and professional development.
- **Antelope Valley AQMD**  
The Antelope Valley Air Quality Management District is an independent special district based in Lancaster with a jurisdiction covering north Los Angeles County. The AVAQMD contracts most of its services from the MDAQMD. Six full time staff on site support the office in Lancaster, and staff at the Victorville office contribute additional support.

## **AIR QUALITY PROGRAMS**

### **SURVEILLANCE**

The Surveillance section supports District efforts by operating an ambient air monitoring and meteorological network which tracks air quality trends. Air monitoring stations are located in Barstow, Hesperia, Lucerne Valley, Phelan, Trona, Twentynine Palms, and Victorville. The stations are part of the State and Local Air Monitoring System (SLAMS) network. A data acquisition system collects daily and real time levels of pollutants from each of the stations. These data are reported to the California Air Resources Board (CARB), Federal Environmental Protection Agency (EPA), regulated industry and the general public. This information is also used to provide pollution episode forecasts and notification to school systems and the general population of harmful levels of pollution.

The Surveillance section administers programs for maintaining, repairing and calibrating the ambient air monitoring analyzers and system equipment, data acquisition system and meteorological system components. The section also operates and maintains an extensive database from which data from the air monitoring and meteorological system is analyzed providing information on air quality trends to the public.

**Ozone Mapping Program.** The Ozone Mapping project polls the ambient air monitoring network on an hourly basis and electronically transfers these data to the ARB for viewing from a web site. This data is also presented on the District's web site.

**PM<sub>10</sub> and PM<sub>2.5</sub> Monitoring.** The District's laboratory provides a controlled environment for testing and measuring filters under the standards of the PM<sub>10</sub> and PM<sub>2.5</sub> programs.

### **ASSIGNED POSITIONS**

Supervisor Air Quality Engineer (.5 FTE)  
Lead Air Quality Instrument Technician  
Air Quality Instrument Technician

**Mojave Desert AQMD**  
**General Fund Surveillance Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	155,000	123,022	130,198
Vacation	0	9,855	11,739
Sick	0	353	3,345
Holiday	0	7,732	8,285
Salaries & Wages	<u>155,000</u>	<u>140,962</u>	<u>153,567</u>
<b>Payroll Taxes</b>			
Medicare Tax	<u>2,248</u>	<u>1,487</u>	<u>2,464</u>
	2,248	1,487	2,464
<b>Benefits</b>			
Section 125	27,000	23,144	27,300
Employee Assistance Plan	500	366	400
Vision Insurance	0	4	0
Life Insurance	450	233	240
Disability Insurance	1,060	80	225
Workers Compensation	<u>3,500</u>	<u>2,410</u>	<u>2,340</u>
	32,510	26,237	30,505
<b>Retirement</b>			
Employer Pick-up	10,000	8,586	11,896
Employer Contribution SBCERA	53,500	49,413	56,167
Survivor Match	100	84	90
401(a) Matching Contribution	<u>0</u>	<u>0</u>	<u>20</u>
	63,600	58,083	68,173
<b>Total Personnel Expenses</b>	<b><u>253,358</u></b>	<b><u>226,769</u></b>	<b><u>254,709</u></b>

**Mojave Desert AQMD**  
**General Fund Surveillance Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	2,500	2,500	2,500
Long Distance Charges	750	250	275
Cellular Phones	500	125	150
Video/Teleconference	350	25	50
Internet	6,000	5,640	6,000
Web Hosting	500	5,000	150
Tech Support	1,000	1,500	1,800
Cable	25	50	60
	11,625	15,090	10,985
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	250	480	500
Publications & Subscriptions	250	37	100
	500	517	600
<b>Non-Depreciable Inventory</b>			
Machinery & Equipment Exp	7,000	5,666	6,500
Safety Equipment Exp	300	200	300
	7,300	5,866	6,800
<b>Legal</b>			
<b>Professional Services</b>			
Payroll Contract	0	150	100
Consulting Fees	25,000	25,000	5,000
	25,000	25,150	5,100
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	5,500	8,750	9,000
Custodial Services	4,500	4,500	6,250
Landscaping	700	700	850
Equipment Repair	8,000	12,300	15,000
	18,700	26,250	31,100

**Mojave Desert AQMD**  
**General Fund Surveillance Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	5,000	2,685	10,000
Travel	3,000	644	1,000
	<u>8,000</u>	<u>3,329</u>	<u>11,000</u>
<b>Vehicles</b>			
Vehicle Lease	9,000	8,000	9,000
Vehicle Gas & Oil	4,000	3,357	3,750
Vehicle Maintenance	500	1,750	1,500
Vehicle Insurance	1,500	1,850	2,000
	<u>15,000</u>	<u>14,957</u>	<u>16,250</u>
<b>Office Expenses</b>			
Software	6,000	375	6,500
Utilities	8,000	8,400	9,500
Supplies	6,500	4,500	6,500
Facility Leases	5,500	2,600	3,500
Equipment Lease	1,800	2,000	1,800
Postage	100	20	50
Courier	200	860	1,000
Printing/Shredding Services	75	135	150
Security	25	400	600
Liability Insurance	2,000	6,500	6,750
Meeting Expenses	100	20	100
	<u>30,300</u>	<u>25,810</u>	<u>36,450</u>
<b>Program Expenses</b>			
<b>Miscellaneous Expenses</b>			
<b>Total Operating Expenses</b>	<u><b>116,425</b></u>	<u><b>116,969</b></u>	<u><b>118,285</b></u>
<b>Capital Expenses</b>			
Buildings	0	4,469	0
Equipment	60,000	71,469	50,000
<b>Total Capital Expenses</b>	<u><b>60,000</b></u>	<u><b>75,938</b></u>	<u><b>50,000</b></u>
<b>Total Expenses</b>	<u><u><b>429,783</b></u></u>	<u><u><b>419,676</b></u></u>	<u><u><b>422,994</b></u></u>

## **AIR QUALITY PROGRAMS**

### **PLANNING, RULEMAKING & GRANTS**

One of the District's primary responsibilities is to promulgate rules and plans in accordance with State and Federal attainment and maintenance planning requirements, to achieve and maintain regional compliance with the various ambient air quality standards. Related functions include rule adoptions and revisions, and State and Federal grant programs with direct and pass through funding.

Planning staff serve as the District liaison with regional, State and Federal governments, ensuring District compliance with applicable requirements and significant developments. Planning staff also perform California Environmental Quality Act (CEQA) review and comment functions in the District's role as the expert agency for air quality. Staff in Planning and Rulemaking implement and maintain the following programs.

- California ambient air quality standards attainment planning, as codified in the California Clean Air Act and subsequent state legislation. This program currently focuses on the California ozone standard.
- National ambient air quality standards attainment planning, as codified in the Federal Clean Air Act, the Clean Air Act Amendments and subsequent Federal legislation. This program currently focuses on the National one-hour and eight-hour ozone standards, the National 24-hour, annual PM<sub>10</sub> standards, and National 24-hour, annual PM<sub>2.5</sub> standards.
- Federal General and Transportation Conformity, involving regional project review and comment
- California Environmental Quality Act, requiring local and regional project review
- National Environmental Protection Act, requiring local and regional project review
- Carl Moyer and AB 2766 Grant Programs

### **COMPLIANCE**

The District's responsibility is to protect the health and welfare of the public by assisting the regulated community in complying with Federal, State and Local regulatory requirements. This responsibility is carried out through various programs and activities including comprehensive annual inspections performed to verify compliance with air quality regulations; investigation of citizen complaints pertaining to air related matters; legal case development when necessary to address non-complying situations; Federal Asbestos Demolition and Renovation Program; State-mandated Variance Program; Continuous Emissions Monitoring Programs; reporting to the Environmental Protection Agency's AIRS and Significant Violator programs; and source testing.

Legal assistance is provided by District Counsel regarding enforcement related activities, such as civil actions, case development, penalty negotiations, and variance hearing board support.

### **ASSIGNED POSITIONS**

Deputy Director – Mojave Desert Operations  
Lead Air Quality Specialist  
Air Quality Specialist (5)

**Mojave Desert AQMD**  
**General Fund Planning / Rule Making / Grants / Compliance Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	725,000	620,672	647,516
Vacation	0	50,927	61,460
Sick	0	2,193	36,800
Holiday	0	37,803	41,626
Admin	0	4,894	11,615
Salaries & Wages	<u>725,000</u>	<u>716,489</u>	<u>799,017</u>
<b>Payroll Taxes</b>			
Medicare Tax	10,513	8,261	12,653
	<u>10,513</u>	<u>8,261</u>	<u>12,653</u>
<b>Benefits</b>			
Section 125	135,000	106,821	122,700
Employee Assistance Plan	1,700	1,262	1,400
Vision Insurance	240	270	450
Life Insurance	1,650	1,337	1,080
Disability Insurance	5,900	1,762	1,600
Tuition Reimbursement	0	3,413	0
Workers Compensation	13,700	10,604	9,478
	<u>158,190</u>	<u>125,469</u>	<u>136,708</u>
<b>Retirement</b>			
Employer Pick-up	44,500	43,855	61,084
Employer Contribution SBCERA	246,000	247,206	288,406
Survivor Match	465	389	405
401(a) Matching Contribution	0	0	2,000
Retirement Cash	4,560	4,501	4,560
	<u>295,525</u>	<u>295,951</u>	<u>356,455</u>
<b>Total Personnel Expenses</b>	<b><u>1,189,228</u></b>	<b><u>1,146,170</u></b>	<b><u>1,304,833</u></b>

**Mojave Desert AQMD**  
**General Fund Planning / Rule Making / Grants / Compliance Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	3,500	3,885	3,500
Long Distance Charges	200	115	150
Cellular Phones	500	98	150
Video/Teleconference	1,000	90	100
Internet	4,000	6,734	9,000
Web Hosting	250	277	400
Tech Support	1,000	710	1,000
Cable	200	159	250
	<u>10,650</u>	<u>12,068</u>	<u>14,550</u>
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	0	1,740	1,750
Publications & Subscriptions	300	132	100
Professional Dues	300	0	0
	<u>600</u>	<u>1,872</u>	<u>1,850</u>
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	2,000	506	500
Machinery & Equipment Exp	8,500	493	500
Safety Equipment Exp	1,200	456	500
	<u>11,700</u>	<u>1,455</u>	<u>1,500</u>
<b>Legal</b>			
Legal Notices	1,500	1,009	1,500
Legal Services	0	99	0
	<u>1,500</u>	<u>1,108</u>	<u>1,500</u>
<b>Professional Services</b>			
Payroll Contract	0	355	375
Consulting Fees	2,500	0	0
	<u>2,500</u>	<u>355</u>	<u>375</u>
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	4,000	4,685	4,750
Custodial Services	3,000	3,064	3,800
Landscaping	450	415	500
Equipment Repair	400	0	0
	<u>7,850</u>	<u>8,164</u>	<u>9,050</u>

**Mojave Desert AQMD**  
**General Fund Planning / Rule Making / Grants / Compliance Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	6,000	2,800	4,000
Travel	10,000	10,219	12,000
Mileage	250	2,755	0
	<u>16,250</u>	<u>15,774</u>	<u>16,000</u>
<b>Vehicles</b>			
Vehicle Lease	20,000	14,908	34,000
Vehicle Gas & Oil	7,500	6,950	7,500
Vehicle Maintenance	2,000	2,296	1,500
Vehicle Repairs	2,000	190	500
Vehicle Insurance	5,200	6,799	7,500
	<u>36,700</u>	<u>31,143</u>	<u>51,000</u>
<b>Office Expenses</b>			
Software	2,500	1,290	2,900
Utilities	5,500	5,533	6,750
Supplies	3,500	4,213	4,500
Facility Leases	1,000	1,867	2,250
Equipment Lease	6,500	5,931	7,000
Postage	1,000	1,002	1,000
Courier	450	255	500
Printing/Shredding Services	2,500	835	1,750
Security	25	243	400
Liability Insurance	6,000	4,889	3,500
Meeting Expenses	500	932	350
Community Relations	5,000	0	0
	<u>34,475</u>	<u>26,990</u>	<u>30,900</u>
<b>Program Expenses</b>			
Program Expenditures	37,000	21,945	56,600
	<u>37,000</u>	<u>21,945</u>	<u>56,600</u>
<b>Miscellaneous Expenses</b>			
<b>Total Operating Expenses</b>	<b><u>159,225</u></b>	<b><u>120,874</u></b>	<b><u>183,325</u></b>
<b>Capital Expenses</b>			
Buildings	0	2,682	0
Computers	0	74	0
Software	100,000	56,448	50,000
<b>Total Capital Expenses</b>	<b><u>100,000</u></b>	<b><u>59,204</u></b>	<b><u>50,000</u></b>
<b>Total Expenses</b>	<b><u>1,448,453</u></b>	<b><u>1,326,248</u></b>	<b><u>1,538,158</u></b>

## **AIR QUALITY PROGRAMS**

### **STATIONARY SOURCES**

One of the District's primary responsibilities is to process applications for permits in accordance with all applicable local, State and Federal regulations. These applications are required for projects which propose industrial and/or commercial processes that have a potential to emit an air contaminant into the atmosphere. The requirements differ widely depending on the type and size of the proposed equipment.

District air quality engineers provide technical reviews of official documents, such as test reports, risk assessments, environmental impact statements and environmental impact report, as well as technical assistance to permit applicants, other agencies, and manufacturers. The District implements and maintains various State and Federal mandated programs:

- **Title III & V Programs.** The Title III program is the federal toxic program for Title V facilities. Title V is a Federal Operating Permits Program required by the 1990 Clean Air Act. This program requires the District to maintain a Federal Permitting Program approved by the Environmental Protection Agency (EPA).
- **Emissions Inventory.** The purpose of this program is to inventory sources of criteria air pollutants within the District which is used as a yardstick to determine progress towards attainment and maintaining compliance with National and State Ambient Air Quality Standards. This program is required by State and Federal Law.
- **Toxic Emissions Inventory.** (Air Toxic "Hot Spot" Information and Assessment Act of 1987) The purpose of this program is to assess the amounts, types and health impacts of air toxics from stationary sources. This program occasionally sponsors a part time intern to assist with the program documentation.
- **AB 3205.** This program is required by the State, and its purpose is to implement a program to notify parents of school children when a new or modified source will be located within one mile of elementary, middle, or high schools.

### **ASSIGNED POSITIONS**

Supervisor Air Quality Engineer (.5 FTE)  
Lead Air Quality Engineer  
Air Quality Engineer (4)

**Mojave Desert AQMD**  
**General Fund Stationary Sources Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	560,000	481,088	492,690
Vacation	0	41,899	49,296
Sick	0	1,023	22,990
Holiday	0	30,578	33,513
Admin	0	1,047	4,862
<b>Salaries &amp; Wages</b>	<u>560,000</u>	<u>555,635</u>	<u>603,351</u>
<b>Payroll Taxes</b>			
Medicare Tax	8,120	6,284	9,461
	8,120	6,284	9,461
<b>Benefits</b>			
Section 125	80,000	67,407	82,000
Employee Assistance Plan	1,200	887	1,000
Vision Insurance	240	216	300
Life Insurance	1,100	777	720
Disability Insurance	3,500	1,481	561
Tuition Reimbursement	0	6,490	0
Workers Compensation	7,500	4,960	4,963
	<u>93,540</u>	<u>82,218</u>	<u>89,544</u>
<b>Retirement</b>			
Employer Pick-up	44,500	40,109	45,678
Employer Contribution SBCERA	188,000	185,648	215,668
Survivor Match	280	245	270
401(a) Matching Contribution	0	0	1,800
Retirement Cash	2,160	1,939	2,160
	<u>234,940</u>	<u>227,941</u>	<u>265,576</u>
<b>Total Personnel Expenses</b>	<b>896,600</b>	<b>872,078</b>	<b>967,932</b>

**Mojave Desert AQMD**  
**General Fund Stationary Sources Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	2,000	2,230	1,750
Long Distance Charges	100	75	100
Cellular Phones	300	64	100
Video/Teleconference	600	59	100
Internet	2,500	4,423	4,500
Web Hosting	200	182	250
Tech Support	1,000	505	700
Cable	150	104	150
	<u>6,850</u>	<u>7,642</u>	<u>7,650</u>
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	0	1,140	1,200
Publications & Subscriptions	250	87	250
Professional Dues	800	1,290	1,200
	<u>1,050</u>	<u>2,517</u>	<u>2,650</u>
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	0	2,453	3,000
Machinery & Equipment Exp	3,000	397	1,000
Safety Equipment Exp	200	346	500
	<u>3,200</u>	<u>3,196</u>	<u>4,500</u>
<b>Legal</b>			
<b>Professional Services</b>			
Payroll Contract	0	251	250
	<u>0</u>	<u>251</u>	<u>250</u>
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	2,800	3,343	3,000
Custodial Services	2,500	2,159	2,500
Landscaping	350	297	350
Equipment Repair	150	2,064	750
	<u>5,800</u>	<u>7,863</u>	<u>6,600</u>

**Mojave Desert AQMD**  
**General Fund Stationary Sources Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	8,000	3,631	3,000
Travel	10,000	9,200	7,000
	<u>18,000</u>	<u>12,831</u>	<u>10,000</u>
<b>Vehicles</b>			
Vehicle Lease	0	927	1,200
Vehicle Gas & Oil	1,500	2,096	1,700
Vehicle Maintenance	1,500	1,749	1,600
Vehicle Insurance	1,000	1,286	1,300
	<u>4,000</u>	<u>6,058</u>	<u>5,800</u>
<b>Office Expenses</b>			
Software	2,500	883	2,000
Utilities	4,000	3,918	4,000
Supplies	2,000	2,535	2,500
Facility Leases	725	1,230	1,250
Equipment Lease	4,000	3,898	4,200
Postage	2,000	1,538	1,500
Courier	100	0	100
Printing/Shredding Services	150	321	150
Security	25	173	150
Liability Insurance	4,000	3,345	2,800
Meeting Expenses	200	31	50
	<u>19,700</u>	<u>17,872</u>	<u>18,700</u>
<b>Program Expenses</b>			
<b>Miscellaneous Expenses</b>			
<b>Total Operating Expenses</b>	<u><b>58,600</b></u>	<u><b>58,230</b></u>	<u><b>56,150</b></u>
<b>Capital Expenses</b>			
Buildings	0	1,916	0
Computers	0	52	0
<b>Total Capital Expenses</b>	<u><b>0</b></u>	<u><b>1,968</b></u>	<u><b>0</b></u>
<b>Total Expenses</b>	<u><u><b>955,200</b></u></u>	<u><u><b>932,276</b></u></u>	<u><u><b>1,024,082</b></u></u>

## **SUPPORT PROGRAMS**

### **COMMUNITY RELATIONS AND EDUCATION PROGRAM**

The Mojave Desert Air Quality Management District conducts public outreach and education programs in order to fulfill the requirement of the California Clean Air Act of 1988, Health and Safety Code Section 40918(a): "Each district. . . shall . . . include the following measures in its attainment plan . . . (6) Provisions for public education programs to promote actions to reduce emissions from transportation and area-wide sources."

District sponsored programs inform the public about air pollution, its sources, health effects on humans, and damage to the environment. Education must be provided in order to raise public awareness on methods of control and to encourage individual means of reducing air pollution. These programs target many audiences including academia, the general adult population, educators and students from pre-school to college level, as well as businesses and industries through pamphlets, brochures, the annual report, newsletters, public workshops and conferences, presentations, exhibits, and other multimedia promotions. The District participates in *MEEC, the Mojave Environmental Education Consortium*, a public-private non profit partnership providing environmental education support to local schools.

In addition, media relations through press releases, press conferences and air quality forecasts and health advisories are provided to the local media on an ongoing basis as a means of keeping the public informed. The District also participates with the local schools in a Pollution Prevention Week Poster Contest; with the regulated community for Exemplar Awards, High Desert Opportunity, and various environmental fairs, community awareness activities, and science fairs.

### **ASSIGNED POSITIONS**

Community Relations & Education Manager  
Community Relations & Education Specialist

**Mojave Desert AQMD**  
**General Fund Community Relations & Education Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	165,300	124,767	130,780
Overtime	0	343	0
Vacation	0	12,296	15,384
Sick	0	941	7,165
Holiday	0	8,577	9,905
Admin	0	2,355	4,320
Compensatory	0	2,502	0
<b>Salaries &amp; Wages</b>	<b>165,300</b>	<b>151,781</b>	<b>167,554</b>
<b>Payroll Taxes</b>			
Medicare Tax	2,397	1,375	2,667
	2,397	1,375	2,667
<b>Benefits</b>			
Section 125	23,000	20,816	27,400
Employee Assistance Plan	650	366	400
Vision Insurance	275	265	450
Life Insurance	450	190	240
Disability Insurance	2,500	557	700
Workers Compensation	2,500	1,238	1,147
	29,375	23,432	30,337
<b>Retirement</b>			
Employer Pick-up	14,000	10,740	12,879
Employer Contribution SBCERA	60,500	49,618	60,810
Survivor Match	100	76	90
401(a) Matching Contribution	0	0	625
Retirement Cash	2,160	1,855	2,160
	76,760	62,289	76,564
<b>Total Personnel Expenses</b>	<b>273,832</b>	<b>238,877</b>	<b>277,122</b>

**Mojave Desert AQMD**  
**General Fund Community Relations & Education Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	1,000	939	1,000
Long Distance Charges	100	32	50
Cellular Phones	500	126	150
Video/Teleconference	375	37	50
Internet	1,500	2,506	3,200
Web Hosting	200	86	100
Tech Support	1,000	578	750
Cable	75	44	75
	4,750	4,348	5,375
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	500	480	500
Publications & Subscriptions	150	37	100
Professional Dues	550	225	500
	1,200	742	1,100
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	1,000	44	1,000
Machinery & Equipment Exp	3,000	139	2,500
Safety Equipment Exp	200	621	0
	4,200	804	3,500
<b>Legal</b>			
<b>Professional Services</b>			
Payroll Contract	0	122	125
	0	122	125
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	3,000	3,923	4,000
Custodial Services	2,500	2,300	3,200
Landscaping	350	351	450
Equipment Repair	250	0	250
	6,100	6,574	7,900

**Mojave Desert AQMD**  
**General Fund Community Relations & Education Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	1,500	639	1,000
Travel	4,500	2,753	4,500
Mileage	0	40	0
	<u>6,000</u>	<u>3,432</u>	<u>5,500</u>
<b>Vehicles</b>			
Vehicle Lease	3,000	390	700
Vehicle Gas & Oil	1,000	859	1,000
Vehicle Maintenance	1,000	1,521	1,500
Vehicle Repairs	500	0	500
Vehicle Insurance	1,250	1,286	1,350
	<u>6,750</u>	<u>4,056</u>	<u>5,050</u>
<b>Office Expenses</b>			
Software	1,000	367	500
Utilities	4,500	4,333	5,000
Supplies	1,200	1,174	1,200
Facility Leases	400	582	700
Equipment Lease	1,800	1,753	1,800
Postage	250	377	500
Courier	100	10	100
Printing/Shredding Services	3,000	1,485	4,600
Security	25	205	325
Liability Insurance	2,500	3,013	3,000
Meeting Expenses	1,200	270	850
Community Relations	15,000	17,583	17,500
	<u>30,975</u>	<u>31,152</u>	<u>36,075</u>
<b>Program Expenses</b>			
Program Expenditures	0	618	0
Contributions to Other Agencies	90,000	0	90,000
	<u>90,000</u>	<u>618</u>	<u>90,000</u>
<b>Miscellaneous Expenses</b>			
<b>Total Operating Expenses</b>	<b><u>149,975</u></b>	<b><u>51,848</u></b>	<b><u>154,625</u></b>
<b>Capital Expenses</b>			
Buildings	0	2,267	0
Computers	0	22	0
<b>Total Capital Expenses</b>	<b><u>0</u></b>	<b><u>2,289</u></b>	<b><u>0</u></b>
<b>Total Expenses</b>	<b><u>423,807</u></b>	<b><u>293,014</u></b>	<b><u>431,747</u></b>

## **SUPPORT PROGRAMS**

### **EXECUTIVE OFFICES**

The Executive Office is responsible to the Governing Board for the general administration and coordination of all District operations and programs, including staff technical training, violation settlement negotiations, public information, inter and intra agency coordination, committee representation, program planning and streamlining, as well as being responsible for fostering a positive working relationship with the regulated community. The responsibility of this office include those programs mandated by the Federal Environmental Protection Agency and the California Air Resources Board and developing, implementing and enforcing State and Federally mandated programs designed to attain and maintain ambient air quality standards as they pertain to industrial and commercial stationary (non-mobile) sources. This office monitors state and federal legislation affecting the District and advises the Governing Board on actions required to protect the interests of the District. This office is coordinating the digitalization of District records into an electronic storage and retrieval system. Programs for staff development include off-site educational tours of local permitted agencies; planning meetings for management staff; technical training for field staff, and professional development training for management staff.

### **DISTRICT COUNSEL**

The position of District Counsel serves as general legal counsel to the District providing legal advice and opinions on general laws applicable to the District as well as to air district specific mandates such as the Federal Clean Air Act, California air pollution control laws and district adopted air quality rules and regulations. The District Counsel reviews District rules and regulations for legal sufficiency ensuring proper notice and other procedures are followed. The District Counsel exercises authority to bring civil actions in the name of people of State of California for violations of various air quality laws and regulations as well as providing legal support for District presentations in Hearing Board proceedings, supports permitting activities, and conducts compliance actions. The District Counsel analyzes legislative bills proposed in the California Legislature that impact the District and provides information to the District Governing Board regarding such legislation.

The Governing Board may engage "Special Counsel" to provide specialized legal services in particular instances and areas. The scope of the specialized legal services are set forth in the individual contracts for such services.

### **CLERK OF THE BOARDS**

The Clerk of the Boards records official minutes of all meetings of the District Boards, including the Governing Board, the Hearing Board and the Technical Advisory Committee. This office maintains the official records for all actions of the boards and distributes copies of orders and directives to appropriate agencies and members of the public as required and/or directed by the respective Board.

The Governing Board, with 13 members, meets monthly and members may receive \$100 stipend per meeting. The Hearing Board, with 5 members, meets as needed and members may receive \$100 stipend per meeting. The Technical Advisory Committee, with 14 members, meets as needed and members may receive \$35 stipend per meeting.

## **ASSIGNED POSITIONS**

Executive Director/APCO  
District Counsel  
Clerk of the Boards

Executive Lead  
Records Management Specialist  
Records Management Clerk

Office Assistant

**Mojave Desert AQMD**  
**General Fund Executive Offices Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	740,000	544,430	570,574
Vacation	0	57,354	71,081
Sick	0	2,159	2,327
Holiday	0	38,630	42,073
Admin	0	15,051	31,823
Salaries & Wages	<u>740,000</u>	<u>657,624</u>	<u>717,878</u>
<b>Payroll Taxes</b>			
Medicare Tax	10,730	7,542	11,243
	<u>10,730</u>	<u>7,542</u>	<u>11,243</u>
<b>Benefits</b>			
Section 125	92,000	78,262	95,900
Employee Assistance Plan	1,050	737	815
Vision Insurance	1,500	1,064	1,700
Life Insurance	12,000	3,872	5,715
Disability Insurance	7,800	3,132	3,150
Tuition Reimbursement	6,600	0	0
Other Benefits	0	5,700	11,500
Workers Compensation	11,550	4,302	4,300
	<u>132,500</u>	<u>97,069</u>	<u>123,080</u>
<b>Retirement</b>			
Employer Pick-up	54,500	44,500	54,279
Employer Contribution SBCERA	243,000	214,996	256,275
Survivor Match	330	258	315
401(a) Matching Contribution	11,500	11,459	13,700
Retirement Cash	15,600	12,976	15,600
	<u>324,930</u>	<u>284,189</u>	<u>340,169</u>
<b>Total Personnel Expenses</b>	<b><u>1,208,160</u></b>	<b><u>1,046,424</u></b>	<b><u>1,192,370</u></b>

**Mojave Desert AQMD**  
**General Fund Executive Offices Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	1,000	2,245	2,100
Long Distance Charges	100	67	100
Cellular Phones	50	57	60
Video/Teleconference	600	53	50
Internet	3,000	4,570	6,000
Web Hosting	250	169	250
Tech Support	0	960	1,000
Cable	125	93	140
	<u>5,125</u>	<u>8,214</u>	<u>9,700</u>
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	10,000	8,146	8,000
Publications & Subscriptions	10,000	17,784	18,500
Professional Dues	0	2,593	0
	<u>20,000</u>	<u>28,523</u>	<u>26,500</u>
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	1,500	464	1,000
Machinery & Equipment Exp	2,000	439	1,000
Safety Equipment Exp	175	0	100
	<u>3,675</u>	<u>903</u>	<u>2,100</u>
<b>Legal</b>			
Legal Notices	4,000	8,044	8,500
Legal Services	100,000	23,213	25,000
	<u>104,000</u>	<u>31,257</u>	<u>33,500</u>
<b>Professional Services</b>			
Payroll Contract	0	3,231	25,000
Research Studies	35,000	22,633	0
Consulting Fees	105,000	45,229	40,000
Stipends	10,000	10,900	12,000
	<u>150,000</u>	<u>81,993</u>	<u>77,000</u>
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	4,000	4,768	5,000
Custodial Services	3,000	2,914	3,900
Landscaping	500	425	525
Equipment Repair	500	388	500
	<u>8,000</u>	<u>8,495</u>	<u>9,925</u>

**Mojave Desert AQMD**  
**General Fund Executive Offices Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	3,000	409	7,000
Travel	10,000	11,731	13,000
Mileage	2,500	4,313	4,000
	<u>15,500</u>	<u>16,453</u>	<u>24,000</u>
<b>Vehicles</b>			
Vehicle Lease	8,500	3,618	1,500
Vehicle Gas & Oil	2,800	1,281	400
Vehicle Maintenance	750	657	500
Vehicle Insurance	1,300	1,286	1,500
	<u>13,350</u>	<u>6,842</u>	<u>3,900</u>
<b>Office Expenses</b>			
Software	24,500	21,362	21,700
Utilities	5,500	5,401	6,000
Supplies	4,000	3,929	4,100
Facility Leases	1,500	1,146	1,500
Equipment Lease	3,800	3,567	4,000
Postage	250	606	300
Courier	125	82	125
Printing/Shredding Services	250	293	175
Security	25	249	400
Liability Insurance	5,000	4,126	4,500
Meeting Expenses	1,000	1,042	1,000
Community Relations	3,500	0	0
	<u>49,450</u>	<u>41,803</u>	<u>43,800</u>
<b>Program Expenses</b>			
Administrative Expenditures	0	53	0
	<u>0</u>	<u>53</u>	<u>0</u>
<b>Miscellaneous Expenses</b>			
Miscellaneous Expense	0	1,217	1,500
	<u>0</u>	<u>1,217</u>	<u>1,500</u>
<b>Total Operating Expenses</b>	<b>369,100</b>	<b>225,753</b>	<b>231,925</b>
<b>Capital Expenses</b>			
Buildings	0	2,746	0
Computers	0	43	0
<b>Total Capital Expenses</b>	<b>0</b>	<b>2,789</b>	<b>0</b>
<b>Total Expenses</b>	<b>1,577,260</b>	<b>1,274,966</b>	<b>1,424,295</b>

## ***SUPPORT PROGRAMS***

### ***ADMINISTRATIVE SERVICES***

Administrative Services provides financial, administrative and personnel management services to the operating divisions of the District. Accounts payable and warrants are issued by staff using local banking services. Funds to these accounts are replenished by the San Bernardino County Auditor-Controller's Office at the request of the District; payroll is provided under contract by a third party administrator. The office prepares the annual budget and controls expenditures by providing information regarding expenditures and the availability of budgeted funds; purchases equipment and supplies; invoices for required fees are issued, collected, deposited and accounted for through the CAPS – Compliance and Permit System.

The office also manages the District's computer information systems, manages risk management, fleet, facility, fixed assets management, and web site administration.

### ***ASSIGNED POSITIONS***

Deputy Director – Administration  
Fiscal Manager  
Human Resources Specialist  
Information Systems Specialist (2)  
Fiscal Specialist  
Fiscal Technician

**Mojave Desert AQMD**  
**General Fund Administrative Services Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Expenses</b>			
<b>Personnel Expenses</b>			
Salaries	520,000	459,897	486,870
Overtime	0	369	0
Vacation	0	32,387	40,183
Sick	0	5,987	32,273
Holiday	0	30,369	33,620
Admin	0	18,015	19,230
<b>Salaries &amp; Wages</b>	<b>520,000</b>	<b>547,024</b>	<b>612,176</b>
<b>Payroll Taxes</b>			
Medicare Tax	7,540	6,086	9,709
	7,540	6,086	9,709
<b>Benefits</b>			
Section 125	93,000	77,526	95,700
Employee Assistance Plan	1,300	887	1,000
Vision Insurance	800	565	850
Life Insurance	1,200	963	840
Disability Insurance	5,500	2,033	2,000
Workers Compensation	6,400	3,792	3,463
	108,200	85,766	103,853
<b>Retirement</b>			
Employer Pick-up	32,500	31,339	46,871
Employer Contribution SBCERA	177,500	182,731	221,301
Survivor Match	325	280	315
401(a) Matching Contribution	0	0	500
Retirement Cash	8,800	7,621	8,880
	219,125	221,971	277,867
<b>Total Personnel Expenses</b>	<b>854,865</b>	<b>860,847</b>	<b>1,003,605</b>

**Mojave Desert AQMD**  
**General Fund Administrative Services Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Operating Expenses</b>			
<b>Communications</b>			
Telephones	2,000	2,230	2,000
Long Distance Charges	150	75	100
Cellular Phones	250	314	100
Video/Teleconference	750	59	100
Internet	2,500	4,480	6,000
Web Hosting	250	187	250
Tech Support	10,000	1,155	1,500
Cable	150	104	150
	16,050	8,604	10,200
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	1,200	1,140	1,200
Publications & Subscriptions	1,200	596	1,200
Professional Dues	1,300	1,040	13,000
	3,700	2,776	15,400
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	0	1,517	0
Machinery & Equipment Exp	4,000	1,127	1,000
Safety Equipment Exp	250	705	100
	4,250	3,349	1,100
<b>Legal</b>			
Legal Notices	200	0	0
Legal Services	10,000	73,523	10,000
	10,200	73,523	10,000
<b>Professional Services</b>			
County Services	1,500	952	1,000
Payroll Contract	0	262	250
Financial Services	23,600	24,758	20,000
Consulting Fees	10,000	0	0
	35,100	25,972	21,250
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	3,600	6,327	7,000
Custodial Services	3,000	2,919	3,800
Landscaping	475	420	550
Equipment Repair	250	0	0
	7,325	9,666	11,350

**Mojave Desert AQMD**  
**General Fund Administrative Services Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	3,000	1,564	3,000
Travel	10,000	6,903	10,000
Mileage	200	0	100
Recruitment	700	0	0
	13,900	8,467	13,100
<b>Vehicles</b>			
Vehicle Lease	0	927	1,600
Vehicle Gas & Oil	375	399	400
Vehicle Maintenance	250	432	500
Vehicle Insurance	375	367	400
	1,000	2,125	2,900
<b>Office Expenses</b>			
Software	15,000	7,977	10,000
Utilities	5,000	5,384	6,300
Supplies	6,500	5,972	6,500
Facility Leases	700	1,265	1,400
Equipment Lease	4,200	3,959	4,000
Postage	1,200	1,012	1,200
Courier	150	78	100
Printing/Shredding Services	300	355	300
Security	0	246	0
Liability Insurance	3,800	4,221	4,000
Meeting Expenses	250	44	100
	37,100	30,513	33,900
<b>Program Expenses</b>			
<b>Miscellaneous Expenses</b>			
<b>Total Operating Expenses</b>	<b>128,625</b>	<b>164,995</b>	<b>119,200</b>
<b>Capital Expenses</b>			
Buildings	0	2,714	0
Computers	0	52	0
Software	10,000	3,250	0
<b>Total Capital Expenses</b>	<b>10,000</b>	<b>6,016</b>	<b>0</b>
<b>Total Expenses</b>	<b>993,490</b>	<b>1,031,858</b>	<b>1,122,805</b>

## ***SUPPORT PROGRAMS***

### ***DISTRICT WIDE***

Expenses classified here are those included in the contract with Antelope Valley Air Quality Management District. In addition, certain expenses are not be not categorized to any one group until the expenditure has been assigned and completed.

### ***ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT***

The AVAQMD contracts all of its services from the MDAQMD. The contract provides employees for the Lancaster office in addition to specific expertise to support work to the Antelope Valley office and allow for a complete, full service agency. Staff services are charged at a set hourly rate that includes the position's hourly rate, all associated benefits, and an administrative charge. If needed, services and supplies purchased for the AVAQMD are charged at cost. MDAQMD provides all accounting services and financial reporting. Certain administrative functions and support of the AVAQMD is performed in Victorville where standardized functions such as accounting, legal, and computer support are more cost-effective from a centralized location.

### ***ASSIGNED POSITIONS***

Deputy Director – Antelope Valley Operations  
Air Quality Engineer  
Air Quality Specialist (3)  
Administrative Secretary/Deputy Clerk of the Board

**Mojave Desert AQMD**  
**General Fund District Wide Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	730,000	351,751	428,475
Longevity Pay	0	20,818	0
Vacation	0	95,862	32,650
Sick	0	97,542	21,770
Holiday	0	32,419	28,860
Admin	0	31,776	10,155
Compensatory	0	116	0
<b>Salaries &amp; Wages</b>	<b>730,000</b>	<b>630,284</b>	<b>521,910</b>
<b>Payroll Taxes</b>			
Medicare Tax	10,585	12,988	7,920
	10,585	12,988	7,920
<b>Benefits</b>			
Section 125	120,000	132,337	81,800
Employee Assistance Plan	2,000	655	815
Vision Insurance	1,200	486	0
Life Insurance	7,570	2,004	720
Disability Insurance	6,000	3,328	1,260
Tuition Reimbursement	14,000	0	20,700
Workers Compensation	16,600	8,241	4,620
	167,370	147,051	109,915
<b>Retirement</b>			
Employer Pick-up	67,500	67,720	38,220
Employer Contribution SBCERA	268,000	339,745	180,500
Survivor Match	475	477	270
401(a) Matching Contribution	7,000	8,164	0
Retirement Cash	8,000	8,506	4,560
	350,975	424,612	223,550
<b>Total Personnel Expenses</b>	<b>1,258,930</b>	<b>1,214,935</b>	<b>863,295</b>

**Mojave Desert AQMD**  
**General Fund District Wide Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Operating Expenses</u></b>			
<b>Communications</b>			
Web Hosting	50	0	0
Tech Support	200	0	0
	<u>250</u>	<u>0</u>	<u>0</u>
<b>Dues &amp; Subscriptions</b>			
Professional Dues	225	0	0
	<u>225</u>	<u>0</u>	<u>0</u>
<b>Non-Depreciable Inventory</b>			
Machinery & Equipment Exp	0	50	0
Safety Equipment Exp	0	0	5,000
	<u>0</u>	<u>50</u>	<u>5,000</u>
<b>Legal</b>			
Legal Services	0	10,374	0
	<u>0</u>	<u>10,374</u>	<u>0</u>
<b>Professional Services</b>			
Payroll Contract	25,000	187	300
Financial Services	12,000	0	0
Research Studies	25,000	25,000	25,000
Consulting Fees	32,500	0	0
Stipends	0	250	0
	<u>94,500</u>	<u>25,437</u>	<u>25,300</u>
<b>Maintenance &amp; Repairs</b>			

**Mojave Desert AQMD**  
**General Fund District Wide Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	1,000	0	1,000
Travel	1,000	564	1,000
Mileage	1,000	128	1,000
	<u>3,000</u>	<u>692</u>	<u>3,000</u>
<b>Vehicles</b>			
Vehicle Gas & Oil	1,000	0	500
Vehicle Maintenance	500	0	0
Vehicle Repairs	1,000	0	0
Vehicle Insurance	500	0	0
	<u>3,000</u>	<u>0</u>	<u>500</u>
<b>Office Expenses</b>			
Software	3,500	2,777	5,000
Supplies	100	29	100
Postage	1,100	796	1,000
Courier	0	70	0
Meeting Expenses	0	20	100
	<u>4,700</u>	<u>3,692</u>	<u>6,200</u>
<b>Program Expenses</b>			
Contributions to Other Agencies	0	90,000	0
	<u>0</u>	<u>90,000</u>	<u>0</u>
<b>Miscellaneous Expenses</b>			
Bank Fees	5,000	4,364	5,040
Miscellaneous Expense	0	1,034	0
	<u>5,000</u>	<u>5,398</u>	<u>5,040</u>
<b>Total Operating Expenses</b>	<b>110,675</b>	<b>135,643</b>	<b>45,040</b>
<b>Capital Expenses</b>			
Buildings	40,000	9,227	15,000
Equipment	5,000	0	10,000
Vehicles	0	0	25,000
Computers	50,000	56,366	40,000
Software	15,000	69,203	13,000
<b>Total Capital Expenses</b>	<b>110,000</b>	<b>134,796</b>	<b>103,000</b>
<b>Total Expenses</b>	<b>1,479,605</b>	<b>1,485,374</b>	<b>1,011,335</b>

Communications - Services for telephone, internet, video teleconferencing, web hosting, cloud backup and disaster recovery solution; and related tech support.

Dues & Subscriptions, Memberships - Cal/EPA Newsletters, local newspapers, West Group (legal research), technical and educational materials. Memberships – California Air Pollution Control Officers Association (CAPCOA) California Special Districts Association (CSDA); Air & Waste Management Association (A&WMA); California Climate Action Registry; Rotary Club; American Bar Association; California State Bar Association, Victor Valley College Foundation; professional dues for various organizations.

Non-Depreciable Inventory - Small office equipment, desktop PCs and tablets, office furniture, safety equipment, all under \$5,000.

Legal - Specialized Legal Services – Costs associated with outsourced legal services for Governing Board and Hearing Board support, administrative issues such as personnel and labor relations; publication of public notices, as required.

Maintenance & Repairs – Building and maintenance expenses: custodial, landscaping, HVAC service; pest control, fire extinguisher maintenance, parking lot sweeping, general building repair and maintenance. Equipment repair: Air Monitoring station and equipment maintenance and minor repairs (seven stations); PM Room environmental system control maintenance.

Training & Travel - CARB Fundamentals of Enforcement Series, New Source Review, Air Resources Training; Air Toxics Workshop. Staff professional development and training through Special Districts Risk Management Authority and California Special District Association (attendance provides discounts to agency wide premiums), management, team building, and professional development. Board Member Training events, as available. American Records Management Association Annual Conference, Questys and AccuFund users groups. Staff development in graphics design, news writing, public outreach campaigns. Staff training in accounting, personnel, web site development, network and computer systems, safety and training meetings.

Vehicles - Vehicle Replacement Program (most vehicle replacements will be leased through the Enterprise Fleet Maintenance Agreement). This budget includes replacing one vehicle in the District-owned fleet.

Office Expenses - Includes: Supplies, Postage and Courier expenses, Printing and Shredding services, Security, Liability Insurance, Meeting Expenses, and Facility Leases (including equipment leases), Utilities

Community Relations. Software – Licenses and maintenance for software, network, and equipment; such as operating systems, office suites, anti-virus, Questys, and Air Vision; software upgrade purchases. Printing Services – Includes costs for promotional information, District data sheets, agenda reproduction; annual report, newsletters, poster contest calendars, etc. Liability Insurance - The District is a member of the Special District Risk Management Authority (SDRMA), a risk management pool for liability insurance and related coverage. Rents & Leases - Equipment – Digital Copier/Scanner Systems, metered postage machine; Structures – Air Monitoring Stations rent (Hesperia and Phelan); Vehicles – Rental during travel; fleet replacement contracted with Enterprise Fleet Management. Community Relations - Community and public service recognition awards such Exemplar (MDAQMD), Outstanding Science Project Awards. Promotional items for community outreach events; poster contest expenses. Special event registration fees such as High Desert Opportunity. Management-Supervisory Planning Meetings, Employee Appreciation; public employee service recognition awards.

Program Expenses - Program Expenses that are directly attributable to a funding source supporting the corresponding program (AB 2766, Carl Moyer, reimbursing contracts, Title V, PERP program, etc.) Contributions - Mojave Environmental Education Consortium (MEEC) and Interstate Clean Transportation Corridor (ICTC) are eligible expenditures of AB 2766 funds. Program Expenditures - Funds designated from the General Fund for specific local area grants (Annual Lawn Mower Exchange Program and Cash for Grass)

Professional Services – Various third party and/or consulting services including San Bernardino County, annual fiscal audit, actuarial studies, specialized legal support, proposed labor consulting services, extra or temporary help, building maintenance services, annual executive physical services, outsourced computer and application support, language translator for public materials and air monitoring data analysis support. Research Studies - Funds reserved for greenhouse gas studies, or targeted environmental study projects. Stipends - Board member stipend based on estimated number of meetings (Governing Board, Hearing Board, and Technical Advisory Committee).

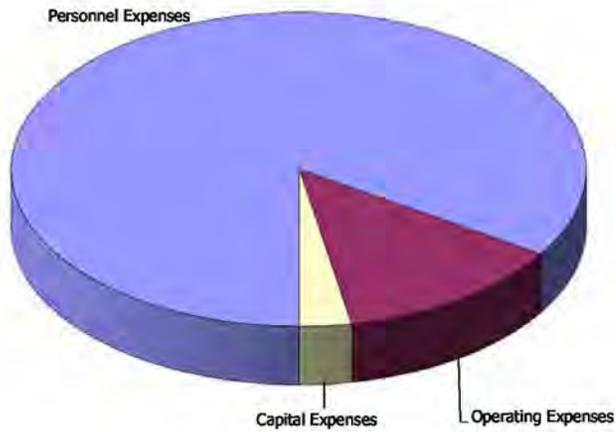
Capital Expenses - Buildings – Building improvements and capital projects including energy savings coating for roof (\$15,000); safety related improvements (\$5,000). Equipment Purchases - replace and upgrade equipment located at air monitoring stations (\$50,000), Video teleconferencing (\$5,000). Computers – computer network replacements (\$40,000). Software (\$63,000) – CAPS (\$63,000), test and implement programming for permit tracking system; costs shared with AVAQMD (\$13,000); design and deploy new website. Vehicles - replace one vehicle (\$25,000).

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

**Budgeted Expense Analysis**

Fiscal Year 2016-17

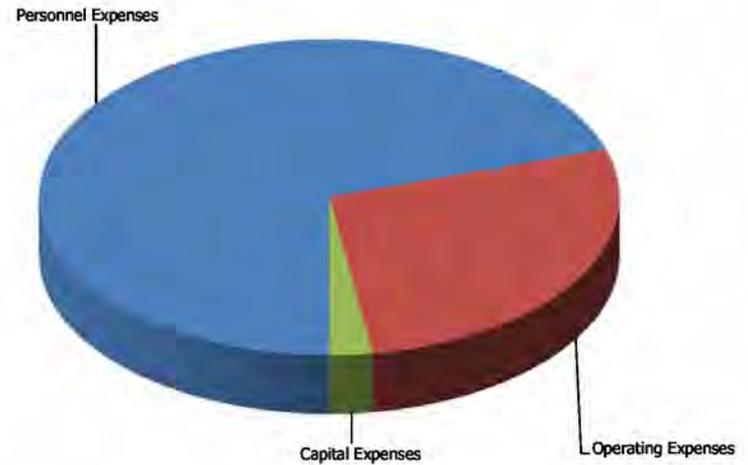
**General Fund**



**General Fund**

EXPENSE CATEGORY	AMOUNT	% of Total	
Personnel Expenses	5,863,866	86.58%	% of Operating Costs only (sum total of Personnel and Operating Expenses)
Operating Expenses	908,550	13.42%	
Capital Expenses	203,000	2.91%	% of total
<b>TOTAL</b>	<b>6,975,416</b>		

**Consolidated (All Funds)**



EXPENSE CATEGORY	AMOUNT	% of Total	
Personnel Expenses	5,936,624	71.84%	% of Operating Costs only (sum total of Personnel and Operating Expenses)
Operating Expenses	2,327,570	28.16%	
Capital Expenses	203,000	2.91%	% of total
<b>TOTAL</b>	<b>8,467,194</b>		

**Mojave Desert AQMD**  
**General Fund Consolidated Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b><u>Expenses</u></b>			
<b>Personnel Expenses</b>			
Salaries	3,595,300	2,705,627	2,887,103
Overtime	0	712	0
Longevity Pay	0	20,818	0
Vacation	0	300,580	281,793
Sick	0	110,198	126,670
Holiday	0	186,108	197,882
Admin	0	73,138	82,005
Compensatory	0	2,618	0
<b>Salaries &amp; Wages</b>	<b>3,595,300</b>	<b>3,399,799</b>	<b>3,575,453</b>
<b>Payroll Taxes</b>			
Medicare Tax	52,133	44,023	56,117
	52,133	44,023	56,117
<b>Benefits</b>			
Section 125	570,000	506,313	532,800
Employee Assistance Plan	8,400	5,160	5,830
Vision Insurance	4,255	2,870	3,750
Life Insurance	24,420	9,376	9,555
Disability Insurance	32,260	12,373	9,496
Tuition Reimbursement	20,600	9,903	20,700
Other Benefits	0	5,700	11,500
Workers Compensation	61,750	35,547	30,311
	721,685	587,242	623,942
<b>Retirement</b>			
Employer Pick-up	267,500	246,849	270,907
Employer Contribution SBCERA	1,236,500	1,269,357	1,279,127
Survivor Match	2,075	1,809	1,755
401(a) Matching Contribution	18,500	19,623	18,645
Retirement Cash	41,280	37,398	37,920
	1,565,855	1,575,036	1,608,354
<b>Total Personnel Expenses</b>	<b>5,934,973</b>	<b>5,606,100</b>	<b>5,863,866</b>

**Mojave Desert AQMD**  
**General Fund Consolidated Expense Budget Detail**

	<u>Adopted Budget FY 2016</u>	<u>End-of-Year Estimates FY 2016</u>	<u>Proposed Budget FY 2017</u>
<b><u>Operating Expenses</u></b>			
<b>Communications</b>			
Telephones	12,000	14,029	12,850
Long Distance Charges	1,400	614	775
Cellular Phones	2,100	784	710
Video/Teleconference	3,675	323	450
Internet	19,500	28,353	34,700
Web Hosting	1,700	5,901	1,400
Tech Support	14,200	5,408	6,750
Cable	725	554	825
	<u>55,300</u>	<u>55,966</u>	<u>58,460</u>
<b>Dues &amp; Subscriptions</b>			
Memberships & Sponsorships	11,950	13,126	13,150
Publications & Subscriptions	12,150	18,673	20,250
Professional Dues	3,175	5,148	14,700
	<u>27,275</u>	<u>36,947</u>	<u>48,100</u>
<b>Non-Depreciable Inventory</b>			
Furniture & Fixtures Exp	4,500	4,984	5,500
Machinery & Equipment Exp	27,500	8,311	12,500
Safety Equipment Exp	2,325	2,328	6,500
	<u>34,325</u>	<u>15,623</u>	<u>24,500</u>
<b>Legal</b>			
Legal Notices	5,700	9,053	10,000
Legal Services	110,000	107,209	35,000
	<u>115,700</u>	<u>116,262</u>	<u>45,000</u>
<b>Professional Services</b>			
County Services	1,500	952	1,000
Payroll Contract	25,000	4,558	26,400
Financial Services	35,600	24,758	20,000
Research Studies	60,000	47,633	25,000
Consulting Fees	175,000	70,229	45,000
Stipends	10,000	11,150	12,000
	<u>307,100</u>	<u>159,280</u>	<u>129,400</u>
<b>Maintenance &amp; Repairs</b>			
General Bldg. Maintenance	22,900	31,796	32,750
Custodial Services	18,500	17,856	23,450
Landscaping	2,825	2,608	3,225
Equipment Repair	9,550	14,752	16,500
	<u>53,775</u>	<u>67,012</u>	<u>75,925</u>

**Mojave Desert AQMD**  
**General Fund Consolidated Expense Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b>Training &amp; Travel</b>			
Training	27,500	11,728	29,000
Travel	48,500	42,014	48,500
Mileage	3,950	7,236	5,100
Recruitment	700	0	0
	<u>80,650</u>	<u>60,978</u>	<u>82,600</u>
<b>Vehicles</b>			
Vehicle Lease	40,500	28,770	48,000
Vehicle Gas & Oil	18,175	14,942	15,250
Vehicle Maintenance	6,500	8,405	7,100
Vehicle Repairs	3,500	190	1,000
Vehicle Insurance	11,125	12,874	14,050
	<u>79,800</u>	<u>65,181</u>	<u>85,400</u>
<b>Office Expenses</b>			
Software	55,000	35,031	48,600
Utilities	32,500	32,969	37,550
Supplies	23,800	22,352	25,400
Facility Leases	9,825	8,690	10,600
Equipment Lease	22,100	21,108	22,800
Postage	5,900	5,351	5,550
Courier	1,125	1,355	1,925
Printing/Shredding Services	6,275	3,424	7,125
Security	125	1,516	1,875
Liability Insurance	23,300	26,094	24,550
Meeting Expenses	3,250	2,359	2,550
Community Relations	23,500	17,583	17,500
	<u>206,700</u>	<u>177,832</u>	<u>206,025</u>
<b>Program Expenses</b>			
Program Expenditures	37,000	22,563	56,600
Contributions to Other Agencies	90,000	90,000	90,000
Administrative Expenditures	0	53	0
	<u>127,000</u>	<u>112,616</u>	<u>146,600</u>
<b>Miscellaneous Expenses</b>			
Bank Fees	5,000	4,364	5,040
Miscellaneous Expense	0	2,251	1,500
	<u>5,000</u>	<u>6,615</u>	<u>6,540</u>
<b>Total Operating Expenses</b>	<b><u>1,092,625</u></b>	<b><u>874,312</u></b>	<b><u>908,550</u></b>
<b>Capital Expenses</b>			
Buildings	40,000	26,021	15,000
Equipment	65,000	71,469	60,000
Vehicles	0	0	25,000
Computers	50,000	56,609	40,000
Software	125,000	128,901	63,000
<b>Total Capital Expenses</b>	<b><u>280,000</u></b>	<b><u>283,000</u></b>	<b><u>203,000</u></b>
<b>Total Expenses</b>	<b><u>7,307,598</u></b>	<b><u>6,763,412</u></b>	<b><u>6,975,416</u></b>

**Mojave Desert AQMD**  
**Special Funds Consolidated Fund Budget Detail**

	<b>Adopted Budget FY 2016</b>	<b>End-of-Year Estimates FY 2016</b>	<b>Proposed Budget FY 2017</b>
<b><u>Revenues</u></b>			
Administrative Funding	66,053	66,053	68,758
AB2766 Program	730,000	761,860	760,000
Carl Moyer Program	594,480	594,480	618,820
Interest Revenue	47,650	16,102	96,200
<b>Total Consolidated Program Revenue</b>	<b>1,438,183</b>	<b>1,438,495</b>	<b>1,543,778</b>
<b><u>Expenses</u></b>			
Program Expenditures	1,336,130	1,372,442	1,395,020
Administrative Expenditures	66,053	66,053	14,000
OPEB	23,000	18,000	18,000
Financial Services	13,000	4,500	10,000
<b>Total Consolidated Program Expenses</b>	<b>1,438,183</b>	<b>1,460,995</b>	<b>1,437,020</b>

## **Mojave Desert Air Quality Management District**

### Summary of Board Policy and Standard Practice

#### **Treasurer and Controller**

*(Health & Safety Code § 41245 and § 41246)*

California statutes require the Mojave Desert Air Quality Management District Governing Board to appoint a treasurer as the custodian and a controller as the accounting officer of district funds. The law specifically authorizes the appointment of the county treasurer and the county auditor to serve as the district treasurer and district controller. On July 1, 1993, the Governing Board appointed San Bernardino County elected treasurer and elected auditor respectively to serve as district treasurer and district controller. The Governing Board intention in making these two appointments was to maintain the integrity and control over District funds that is achieved by elected officers being custodian and controller of government treasury.

#### **Management and Budget**

*(Board Policy 94-1; H & S Code §§ 40750 et seq.; and § 41260)*

The Governing Board has delegated various management and financial authorities to the Executive Director/Air Pollution Control Officer. Additionally, statutory law grants certain administrative, permitting and enforcement authorities to the air pollution control officers of air districts in California. The board delegated authorities includes the discretion to transfer funds within major budget categories, authority to enter into contracts up to \$50,000 for budgeted and \$5,000 for unbudgeted items that are of non-emergency nature; and the authority to expend district funds for capital replacement and improvement projects up to the limits established for each project in the budget.

#### **Purchasing Procedures**

*(Standard Practice I-25)*

The Executive Director/Air Pollution Control Officer has established a Purchasing Procedures Standard Practice delineating the responsibilities of staff authorized to make any purchases.

#### **Investment Practices**

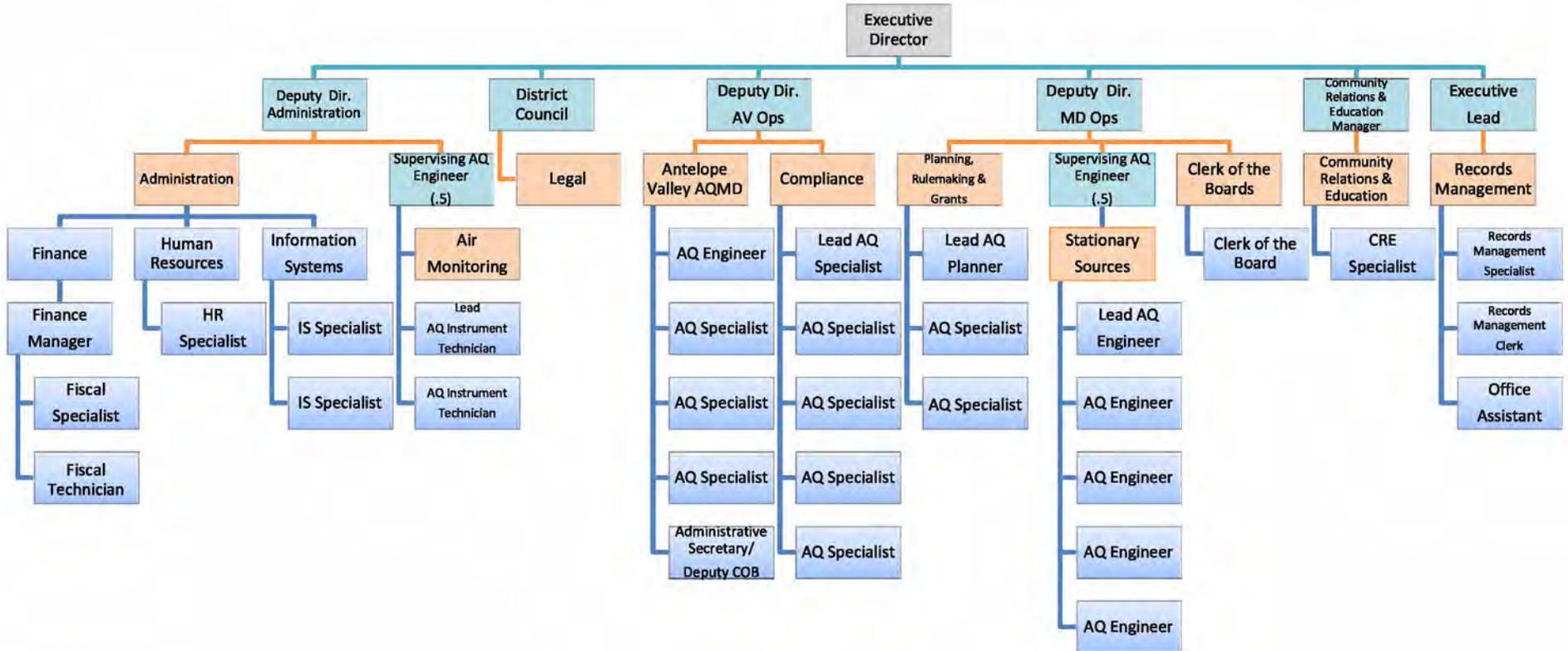
*(Gov. Code §§ 27000.1 et seq.)*

District general funds are deposited with the San Bernardino County Treasurer and are systematically invested as part of the County's investment pool. Interest and other revenues earned on funds are periodically credited to the District's account.

Separate policy documents exist which govern the investment practices for the Deferred Compensation Plan ((457(b))) and the Public Agencies Post-Retirement Health Care Plan (an irrevocable trust).

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Mojave Desert Air Quality Management District  
 Organizational Chart  
 FY 2016-2017



Full Time Employees:	39
Positions to be Hired:	0
<b>Total:</b>	<b>39</b>

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
TABLE OF ORGANIZATION**

Approved FY 16	Approved FY 17	Title of Position	Range	Monthly Salary
1	1	Office Assistant	610	3009-3666
0	0	Fiscal Assistant	615	3404-4148
1	1	Records Management Clerk	615	3404-4148
0	0	Administrative Secretary	615	3404-4148
1	1	Fiscal Technician	621	3948-4810
0	0	Accounting Technician	621	3948-4810
0	0	Associate Air Quality Specialist	621	3948-4810
1	1	Deputy COB/Administrative Secretary	624	4251-5180
1	1	CRE Specialist	626	4467-5442
1	1	Records Management Specialist	626	4467-5442
1	1	Fiscal Specialist	629	4810-5861
2	2	Information Systems Specialist	629	4810-5861
1	1	Air Quality Instrument Technician	629	4810-5861
9	9	Air Quality Specialist	629	4810-5861
0	0	Transportation Program Coordinator	629	4810-5861
1	1	Human Resources Specialist	629	4810-5861
1	1	Lead Air Quality Instrument Technician	636	5718-6967
1	1	Lead Air Quality Planner	636	5718-6967
1	1	Lead Air Quality Specialist	636	5718-6967
1	1	Clerk Of The Boards	636	5718-6967
1	1	Executive Lead	636	5718-6967
0	0	Fiscal Manager	638	6007-7319
5	5	Air Quality Engineer	640	6311-7690
1	1	Lead Air Quality Engineer	644	6967-8488
0	0	Administrative Services Manager	644	6967-8488
1	1	Community Relations & Education Manager	644	6967-8488
1	1	Finance Manager	650	8079-9844
0	0	Supervising Air Quality Specialist	650	8079-9844
1	1	Supervising Air Quality Engineer	650	8079-9844
0	0	Operations Manager	654	8918-10865
0	0	Director Administrative Services	658	9844-11993
1	1	Deputy Director MD Operations	663	11137-13569
1	1	Deputy Director AV Operations	663	11137-13569
1	1	Deputy Director Administration	663	11137-13569
0	0	Deputy Air Pollution Control Officer	663	11137-13569
1	1	District Counsel	665	11701-14256
1	1	Executive Director/APCO	NA	15,915
39.0	39.0			

**Mojave Desert Air Quality Management District**  
**SALARY SCHEDULE FY 2015-16**  
**Effective July 1, 2015**  
**As Amended October 24, 2011**

RANGE											Not attainable as of January 1, 2000						MONTHLY	
	1	2	3	4	5	6	7	8	9	5	F	6	G	7	H			
600	13.56	13.90	14.25	14.60	14.97	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	2,351	2,864	
601	13.90	14.25	14.60	14.97	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	2,409	2,935	
602	14.25	14.60	14.97	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	2,470	3,009	
603	14.60	14.97	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	2,531	3,084	
604	14.97	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	2,595	3,161	
605	15.34	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	2,659	3,240	
606	15.73	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	2,726	3,321	
607	16.12	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	2,794	3,404	
608	16.52	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	2,864	3,489	
609	16.94	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	2,935	3,577	
610	17.36	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	3,009	3,666	
611	17.79	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	3,084	3,758	
612	18.24	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	3,161	3,852	
613	18.69	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	3,240	3,948	
614	19.16	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	3,321	4,047	
615	19.64	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	3,404	4,148	
616	20.13	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	3,489	4,251	
617	20.63	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	3,577	4,358	
618	21.15	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	3,666	4,467	
619	21.68	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	3,758	4,578	
620	22.22	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	3,852	4,693	
621	22.78	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	3,948	4,810	
622	23.35	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	4,047	4,930	
623	23.93	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	4,148	5,054	
624	24.53	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	4,251	5,180	
625	25.14	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	4,358	5,309	
626	25.77	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	4,467	5,442	
627	26.41	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	4,578	5,578	
628	27.07	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	4,693	5,718	
629	27.75	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	4,810	5,861	
630	28.44	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	4,930	6,007	
631	29.16	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	5,054	6,157	
632	29.88	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	5,180	6,311	
633	30.63	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	5,309	6,469	
634	31.40	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	5,442	6,631	
635	32.18	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	5,578	6,797	
636	32.99	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	5,718	6,967	
637	33.81	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	5,861	7,141	
638	34.66	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	6,007	7,319	
639	35.52	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	6,157	7,502	
640	36.41	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	6,311	7,690	
641	37.32	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	6,469	7,882	
642	38.25	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	6,631	8,079	
643	39.21	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	6,797	8,281	
644	40.19	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	6,967	8,488	
645	41.20	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	7,141	8,700	
646	42.23	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	7,319	8,918	
647	43.28	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	7,502	9,141	
648	44.36	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	7,690	9,369	
649	45.47	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	7,882	9,603	
650	46.61	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	8,079	9,844	
651	47.78	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	8,281	10,090	
652	48.97	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	8,488	10,342	
653	50.19	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	8,700	10,600	
654	51.45	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	8,918	10,865	
655	52.73	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	9,141	11,137	
656	54.05	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	9,369	11,415	
657	55.40	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	9,603	11,701	
658	56.79	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	9,844	11,993	
659	58.21	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	10,090	12,293	
660	59.66	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	10,342	12,601	
661	61.16	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	86.41	10,600	12,916	
662	62.68	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	86.41	88.57	10,865	13,238	
663	64.25	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	86.41	88.57	90.79	11,137	13,569	
664	65.86	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	86.41	88.57	90.79	93.06	11,415	13,909	
665	67.50	69.19	70.92	72.70	74.51	76.38	78.28	80.24	82.25	84.30	86.41	88.57	90					

**Mojave Desert AQMD  
Deignations of Fund Balance**

	<b>General Fund</b>		
	Actual 6/30/2015	Actual 2/28/2016	Estimated Change 6/30/2017
<b>Fund Balance Designations</b>			
Operating Cash Reserves	690,000	690,000	690,000
Building Improvement Reserves	200,000	200,000	200,000
Committed: Legal & Litigation Reserves	300,000	300,000	300,000
Budget Stabilization	250,000	250,000	250,000
Retirement Reserves	1,000,000	1,000,000	1,000,000
Unassigned Fund Balance	366,261	509,029	350,000
Compensated Absences	150,000	150,000	150,000
Prepaid Expenses	16,573	48,542	-
Long Term Receivables	820,801	820,801	960,801
Change in Net Position	174,737	(294,549)	-
<b>Projected TOTAL: Reserved and Unassigned Fund Balances</b>	<b>3,968,372</b>	<b>3,673,823</b>	<b>3,900,801</b>

This schedule identifies the designations of the District's fund balance to various reserves for the purposes stated in Governing Board Policy 01-01.

## **MOJAVE DESERT AQMD FUND BALANCE DESCRIPTIONS**

The Mojave Desert AQMD Fund Balances are designated according to Governing Board Policy 07-01, summarized in the following:

### **COMMITTED**

**Operating Cash Reserves** - Reserves must represent 10% of operating costs (Operating and Personnel Expenses). The amount designated meets the policy requirements. The fund may be increased to provide protection against uncertain economic times.

**Building Improvement Reserves** - Reserves are established to provide replacement funds for capital improvements not budgeted and associated with the Park Avenue facility.

**Legal and Litigation Reserves** - Reserves are established in anticipation of costs associated with ongoing CEQA challenges to rule adoption activities.

**Prepay Retirement Liability Reserves** - Reserves are established to accumulate funds to prepay SBCERA the annual contribution anticipating an annual savings. In future years, contributions will be made periodically yet in advance free from finance charges imposed by SBCERA.

### **ASSIGNED**

**Prepaid Expenses** – Recognizes liability for expenses paid one time annually and recognized incrementally through the fiscal year.

**Long Term Receivables Reserves** – Reserves are established to recognize the liability of unpaid permit fees related a large complex source awaiting construction.

**Budget Stabilization Reserves** -Reserves are established to provide resources for moderate budget shortfall.

**Compensated Absences Reserves** – Reserves are established to offset a portion of liability resulting from employees' accrued leave.

### **RESTRICTED**

**Mobile Emissions Reduction Grant (AB 2766) Fund** - These funds are collected on motor vehicle registrations (\$4 each) in the Antelope Valley region. Funds are "allocated on a competitive basis to local government entities and other organizations capable of effectively using funds to reduce mobile emissions." A Work Plan adopted by the Governing Board provides the grant program guidelines.

**Carl Moyer Grant Program Funds** - These funds may be distributed by the California Air Resources Board for projects obligated by the District under this state regulated program. Projects are awarded on a competitive basis.

**OPEB Trust** (Other Post-Employment Benefits) - The Governing Board authorized establishing this irrevocable Trust with the Public Agency Retirement System (PARS) on November 23, 2009 to ensure the sustainability of the District's health benefits for retirees. Periodic actuarial reports determine liability and the annual budget establishes the deposit amount. An adopted investment policy guides the investment strategy to target a rate of return of approximately 7%. The District draws the investment earnings to offset the cost of retiree health benefits.

**Unassigned Fund Balance** - The Unassigned Fund Balance is the representation of the net resources not allocated to the categories described above. This category appears only on the agency Balance Sheet.

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

**FINANCIAL HISTORY & SUMMARY**

	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>
<b>CATEGORY</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>
<b>REVENUE</b>						General Fund Only	General Fund Only
Permit Fees	3,993,971	3,791,543	4,060,084	4,140,803	4,383,004	4,356,630	4,177,340
Application Fees	101,119	166,862	126,570	158,395	102,061	92,648	112,936
Federal Revenue	43,712	20,288	29,545	144,014	131,534	138,524	106,615
Fines and Penalties	191,416	27,250	95,720	85,800	81,900	24,327	40,895
Interest Income	54,405	30,585	18,495	11,517	10,039	6,851	8,261
Contracts and Other Revenue (incl AVAQMD) <sup>1</sup>	1,106,826	1,158,915	1,106,790	1,059,834	1,101,044	1,181,071	1,245,079
Program Revenue (AB 2766 & Moyer)	1,566,541	1,533,847	1,490,159	1,580,747	1,515,949	862,445	900,770
State Revenue	296,112	182,638	242,171	187,785	250,183	184,406	167,955
<b>TOTAL REVENUE</b>	<b>7,354,103</b>	<b>6,911,927</b>	<b>7,169,534</b>	<b>7,368,895</b>	<b>7,575,714</b>	<b>6,846,903</b>	<b>6,759,851</b>
<b>EXPENSES</b>							
Personnel Expenses	4,485,390	4,618,975	4,530,391	4,628,806	5,217,395	5,136,443	5,476,108
Operating Expenses	895,498	1,002,647	1,015,656	630,483	599,169	707,107	833,802
Operating Transfers Out (debt funds) <sup>2</sup>	773,684	569,363	560,594	583,663	804,842	-	-
Capital Expenses	184,322	456,769	232,417	290,467	408,178	348,413	275,204
Contributions to Other Agencies	513,663	446,964	510,219	488,721	512,899	-	-
<b>TOTAL EXPENSES</b>	<b>6,852,556</b>	<b>7,094,718</b>	<b>6,849,277</b>	<b>6,622,139</b>	<b>7,542,483</b>	<b>6,191,963</b>	<b>6,585,114</b>
<b>Due To (From) Reserves</b>	<b>501,548</b>	<b>(182,791)</b>	<b>320,257</b>	<b>746,756</b>	<b>33,231</b>	<b>654,940</b>	<b>174,737</b>
<p align="center"><sup>1</sup>Beginning FY 14 portions of restricted program revenue are deposited directly to its designated fund</p> <p align="center"><sup>2</sup>Includes amounts paid in full in FY 13 for City National Bank (District facility) and Bank of New York (California Energy Commission, Solar)</p>							

**Consolidated Budget (All Funds)  
Year to Year Comparison**

	<b>Approved Budget FY 2016</b>	<b>Estimated Actuals FY 15-16</b>	<b>Budget to Actual Change</b>	<b>Proposed Budget FY 16-17</b>	<b>FY17 Budget FY16 Budget Change</b>
<b>Revenues</b>					
Permit Fees	4,240,000	4,201,196	(38,804)	4,320,000	80,000
Application Fees	89,850	100,524	10,674	104,768	14,918
Federal Revenue	131,615	130,490	(1,125)	130,950	(665)
Fines & Penalties	60,000	41,295	(18,705)	45,000	(15,000)
Interest Income	55,150	24,802	(30,348)	104,900	49,750
Other Revenue	1,314,715	1,293,493	(21,222)	1,300,000	(14,715)
Revenue from Programs	2,267,533	2,268,587	1,054	2,294,578	27,045
State Revenue	180,000	189,298	9,298	189,490	9,490
<b>Total General Fund Revenues</b>	<b>8,338,863</b>	<b>8,249,685</b>	<b>(89,178)</b>	<b>8,489,686</b>	<b>150,823</b>
<b>Expenses</b>					
<b>Personnel Expenses</b>					
Salaries & Wages	3,595,300	3,399,799	(195,501)	3,630,211	34,911
Payroll Taxes	113,883	79,570	(34,313)	86,428	(27,455)
Benefits	659,935	551,695	(108,240)	593,631	(66,304)
Retirement	1,565,855	1,575,036	9,181	1,608,354	42,499
OPEB	23,000	18,000	(5,000)	18,000	(5,000)
<b>Total Personnel Expenses</b>	<b>5,957,973</b>	<b>5,624,100</b>	<b>(333,873)</b>	<b>5,936,624</b>	<b>(21,349)</b>
<b>Operating Expenses</b>					
Communications	55,300	55,966	666	58,460	3,160
Dues & Subscriptions	27,275	36,947	9,672	48,100	20,825
Non-Depreciable Inventory	34,325	15,623	(18,702)	24,500	(9,825)
Legal	115,700	116,262	562	45,000	(70,700)
Maintenance & Repairs	53,775	67,012	13,237	75,925	22,150
Training & Travel	80,650	60,978	(19,672)	82,600	1,950
Vehicles	79,800	65,181	(14,619)	85,400	5,600
Office Expenses	206,700	177,832	(28,868)	206,025	(675)
Program Expenses	1,529,183	1,551,111	21,928	1,555,620	26,437
Professional Services	320,100	163,780	(81,320)	139,400	(180,700)
Miscellaneous Expenses	5,000	6,615	1,615	6,540	1,540
<b>Total Operating Expenses</b>	<b>2,507,808</b>	<b>2,317,307</b>	<b>(115,501)</b>	<b>2,327,570</b>	<b>(180,238)</b>
<b>Capital Expenses</b>					
Buildings	40,000	26,021	(13,979)	15,000	(25,000)
Equipment	65,000	71,469	6,469	60,000	(5,000)
Vehicles	-	-	-	25,000	25,000
Computers	50,000	56,609	6,609	40,000	(10,000)
Software	125,000	128,901	3,901	63,000	(62,000)
<b>Total Capital Expenses</b>	<b>280,000</b>	<b>283,000</b>	<b>3,000</b>	<b>203,000</b>	<b>(77,000)</b>
<b>Total Expenses</b>	<b>8,745,781</b>	<b>8,224,407</b>	<b>(446,374)</b>	<b>8,467,194</b>	<b>(278,587)</b>

## BUDGET CATEGORY DESCRIPTIONS

### REVENUE

#### Permit Fees

Permit Fees Rev	Initial Operating and Annual Renewal Permit Fees
Asbestos Demo/Reno Rev	Fees for Permits related to Asbestos Removal - Rule 306
Title V Permit Rev	Permit fees for Federal Permit Program

#### Application Fees

ERC Application Fees	Emission Reduction Credit-Rule 313
New Source Review	Project Evaluation for Complex Source-Rule 301
Permit Application Fees	Filing of new permits and permit changes
Variance Filing Fees	Filing fee for each petition to District Hearing Board -Rule 303
AG Application Fees	

#### Federal Revenue

ARB (PM <sub>2.5</sub> Program)	Federal 103 grant pass through (via CAPCOA) funding to support PM <sub>2.5</sub> monitoring
Section 105 (PSD) Federal Grants and Agreements	Federal EPA 105 Pilot Grant (established FY 12) to develop PSD Program Grant awards and fee for services with federal agencies.

#### Fine & Penalties

Excess Emissions Fees	Fee charged when a variance is granted by Hearing Board - Rule 303
Notice of Violations Fees	Fee Charged for unpermitted source, or violation of permit condition

#### Interest Income

Interest Revenue	Interest on funds held on deposit or in trust, all funds
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#### Other Revenue

Contracts	Reimbursement for contracted services: Antelope Valley AQMD, Ft. Irwin, Twentynine Palms Marine Base
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#### Revenue from Programs

Administrative Funding	A portion of the Carl Moyer Program pass thru funds are allowed to cover administration costs to administer the program
AB2766 Mobile Emissions Program	Revenue received through DMV vehicle registration
Carl Moyer Admin Funding	A portion of the Carl Moyer Program pass thru funds are allowed to cover administration costs to administer the program
California Clean Air Act Fees	State mandated fee collected on behalf of California Air Resources Board.
Hot Spots	Act of 1987

#### State Revenue

PERP State Funds	Portable Engine Registration Program. The State of California collects fees from owners of portable engines and the MDAQMD provides periodic compliance inspections
State Subvention	Funds received from state budget to supplement Air Monitoring/District activities

## BUDGET CATEGORY DESCRIPTIONS

### PERSONNEL EXPENSES

#### Salaries & Wages

Salaries	Salary costs for regular employees
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#### Payroll Taxes

Payroll Taxes	Mandated employer portion of Medicare contribution
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Workers Compensation	Employer cost for workers compensation insurance
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#### Benefits

Section 125	Section 125 Cafeteria health benefit contribution
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Employee Assistance Plan	Employee Assistance Program
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Vision Insurance	Employee benefit for Vision Care
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Life Insurance	Employee benefit for life insurance
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Disability Insurance	Employee benefit for short term and long term disability
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Tuition Reimbursement	Negotiated per Memorandum of Understanding, allowances for employee's choice education program and professional associations
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Other Benefits	Expenses budgeted in the event of an employee payout for accrued benefits on separation
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#### Retirement

Employer Pick Up	Employer 7% pickup retirement contribution for employees hired before June 30, 2009; variable pickup for employees hired after July 1, 2009
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Employer Contribution SBCERA	Employer required retirement contribution
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Survivors Match	Premium for employers share, benefits to survivors in the event of employee's death
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401(a) Matching Contribution	District match to employee contributions made to Deferred Comp Plan
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Retirement Cash	District paid additional retirement for Exempt and 30 year employees
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## BUDGET CATEGORY DESCRIPTIONS

### OPERATING EXPENSES

Communications	Telephones, cellular phones, video teleconferencing, internet, cable service, web hosting, and related tech support
Dues & Subscriptions	District memberships and sponsorships, publications and subscriptions, allowances for professional dues (negotiated two per employee)
Non-Depreciable Inventory	Items purchased for furniture, equipment, machinery, and safety equipment costing less than \$5,000
Legal	Outsourced legal services for Governing Board, Hearing Board, personnel and labor relations; publication costs for required notices
Maintenance & Repairs	General building maintenance, custodial services, landscaping, on site equipment repair
Training & Travel	Employee training; professional development and related travel expenses; general travel expenses
Vehicles	Lease costs, gas and oil, maintenance and repair, insurance for District's fleet
Office Expenses	Software, utilities, Supplies, facility leases, equipment leases, postage, courier, printing and shredding services, security, liability insurance, meeting expenses and community relations
Program Expenses	Expenses attributable to the use of special funds: AB 2766 eligible expenses, Carl Moyer grant program expenses, OPEB (retiree health benefits program) related
Professional Services	Support contract expenses: San Bernardino County, third party payroll services, financial services including annual fiscal audit, research studies consulting fees, Board stipends

### CAPITAL EXPENSES

Buildings	Threshold: \$5,000
Improvements	Threshold: \$5,000
Furniture & Fixtures	Threshold: \$5,000
Equipment	Threshold: \$5,000
Vehicles	Vehicles not otherwise leased
Computers	Threshold: \$5,000
Software	Capitalized costs associated with major application software (CAPS, Questys, AccuFund)

## ACRONYMS

<b>AB2766</b>	Enabling legislation of 1990 for collection of fees for mobile source reduction projects (Assembly Bill 2766 was codified in the Health & Safety Code §44220ff)
<b>AIRS</b>	Aerometric Information Retrieval System - Compliance data reporting to EPA
<b>APCD</b>	Air Pollution Control District
<b>APCO</b>	Air Pollution Control Officer
<b>AQMD</b>	Air Quality Management District
<b>ARB</b>	Air Resources Board
<b>AVAQMD</b>	Antelope Valley Air Quality Management District
<b>BACT</b>	Best Available Control Technology
<b>CAA</b>	Clean Air Act
<b>CAPCOA</b>	California Air Pollution Control Officers Association
<b>CAPP</b>	Clean Air Patrol Program
<b>CAPS</b>	Compliance and Permit System (permit tracking database)
<b>CARB</b>	California Air Resources Board
<b>CNGVC</b>	California Natural Gas Vehicle Coalition
<b>CRE</b>	Community Relations and Education
<b>CREEC</b>	California Regional Environmental Education Community
<b>CSDA</b>	California Special Districts Association
<b>DAPCO</b>	Deputy Air Pollution Control Officer
<b>EPA</b>	Environmental Protection Agency
<b>ERC</b>	Emission Reduction Credit
<b>FY</b>	Fiscal Year
<b>ICTC</b>	Interstate Clean Transportation Corridor - a geographic area targeted for providing alternate fuel to goods movement vehicles.
<b>MACT</b>	Maximum Achievable Control for Toxics
<b>MEEC</b>	Mojave Environmental Education Consortium
<b>MDAQMD</b>	Mojave Desert Air Quality Management District
<b>MOU</b>	Memorandum of Understanding between the District and non exempt employees represented by the San Bernardino Public Employees Association
<b>NAAQS</b>	National Ambient Air Quality Standards
<b>NESHAP</b>	National Emissions Standard for Hazardous Pollutants
<b>NSPS</b>	New Source Performance Standards
<b>OPEB</b>	Other Post Employment Benefits
<b>PARS</b>	Public Agency Retirement Services
<b>PERP</b>	Portable Equipment Registration Program
<b>PSD</b>	Prevention of Significant Deterioration
<b>PTBS</b>	Permit Tracking and Billing System
<b>SDRMA</b>	Special Districts Risk Management Authority
<b>SLAMS</b>	State and Local Air Monitoring Stations
<b>TAC</b>	Technical Advisory Committee
<b>VPN</b>	Virtual Private Network - a secure method of transmitting data via the internet

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

*AGENDA ITEM 9*

**DATE:** June 27, 2016

**RECOMMENDATION:** Conduct a continued public hearing to consider the amendment of Regulation III – *Fees*: 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 the Regulation and directing staff actions.

**SUMMARY:** Adjustments in fees are required from time to time to ensure that the costs are aligned with the reasonable regulatory costs of the programs they support. Rules 301, 302 and 303 are proposed for amendment to adjust fees by three percent (3%)\_to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

**CONFLICT OF INTEREST:** None.

**BACKGROUND:** On 07/01/93 the Mojave Desert Air Quality Management District (MDAQMD) was created by statute and assumed all the air pollution control responsibilities the San Bernardino County Air Pollution Control District (SBCAPCD). The rules in effect at that time remained in effect until such time as the Governing Board of the MDAQMD officially changed them. The MDAQMD Governing Board, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD. Some of the rules contained in Regulation III – *Fees* have been subsequently amended, consolidated and rescinded.

The following rules of Regulation III are proposed for amendment:

- Rule 301 – *Permit Fees* as last amended 06/22/15; Amend to adjust fees three percent (3%), and make minor changes for clarification and consistency.
- Rule 302 – *Other Fees* as last amended 06/22/15; Amend to adjust fees by three percent (3%), and make minor changes for clarification and consistency.
- Rule 303 – *Hearing Board Fees* as last amended 06/22/15; Amend to adjust fees by three percent (3%), and make minor corrections for clarification.

Cc: Tracy Walters

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

*AGENDA ITEM 9*

**PAGE 2**

Adjustments in fees are required from time to time to ensure that the costs are aligned with the reasonable regulatory costs of the programs they support. The proposed three percent (3%) fee adjustment to Rule 301 – *Permit Fees*, Rule 302 – *Other Fees*, and adjudication thereof.

Public hearings on the budget, the proposed fee adjustment to Rules 301, 302 and 303 will be held on 05/23/2016 and will be continued to 06/27/2016 to receive comment from members of industry and the general public. Proposed amendments to Rules 301, 302 and 303 have been made available for public comments, and appropriate notice was published on or about 04/21/2016 in compliance with the 30-day notice and comment period requirement.

To allow time to implement the proposed fee changes in the computerized billing system, the amendment of Rule 301 is proposed to be effective on 01/01/2017. Proposed changes to Rules 302 and 303 will be effective immediately.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the amendment of Regulation III 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 State Implementation Plan (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 06/13/2015.

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**PRESENTER:** Alan De Salvio, Deputy Director – Mojave Desert Operations

**RESOLUTION \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING REGULATION III - FEES AND DIRECTING STAFF ACTIONS.**

On June 27, 2016, on motion by Member Board Member Name, seconded by Member Board Member Name, and carried, the following resolution is adopted:

**WHEREAS**, on 07/01/93 the Mojave Desert Air Quality Management District (MDAQMD) was created by statute and assumed all the air pollution control responsibilities the San Bernardino County Air Pollution Control District (SBCAPCD); and

**WHEREAS**, the Mojave Desert Air Quality Management District (MDAQMD) has authority pursuant to California Health and Safety Code (H&S Code) §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

**WHEREAS**, the rules in effect at that time remained in effect until such time as the Governing Board of the MDAQMD officially changed them; and

**WHEREAS**, the Governing Board of the MDAQMD, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD; and

**WHEREAS**, some of the rules contained in Regulation III – *Fees* have been subsequently amended, consolidated and rescinded; and

**WHEREAS**, the MDAQMD has authority pursuant to H&S Code §§40702, 40725-40728 to adopt, amend or repeal rules and regulations; and

**WHEREAS**, the following rules of Regulation III – *Fees* are proposed for amendment; and

**WHEREAS**, Rule 301 – *Permit Fees* as last amended 06/22/15 is proposed for amendment to adjust fees three percent (3%), and make minor changes for clarification and consistency; and

**WHEREAS**, Rule 302 – *Other Fees* as last amended 06/22/15 is proposed for amendment to adjust fees by three percent (3%), and make minor changes for clarification and consistency; and

**WHEREAS**, Rule 303 – *Hearing Board Fees* as last amended 06/22/15 is proposed for amendment to adjust fees by three percent (3%), and make minor corrections for clarification; and

**WHEREAS**, adjustments in fees are required from time to time to ensure that the costs are aligned with the reasonable regulatory costs of the programs they support; and

**RESOLUTION \_\_\_\_\_**

1           **WHEREAS**, the proposed three percent (3%) fee adjustment to Rule 301 – *Permit Fees*, Rule 302  
2 – *Other Fees*, and Rule 303 – *Hearing Board Fees* are designed to recover the rising costs associated with  
3 issuing licenses and permits, performing investigations, inspections, and audits, and the administrative  
4 enforcement and adjudication thereof; and

5           **WHEREAS**, public hearings on the budget, the proposed fee adjustment to Rules 301, 302 and  
6 303 were held on 05/23/2016 and 06/27/2016 to receive comment from members of industry and the  
7 general public; and

8           **WHEREAS**, proposed amended Rules 301, 302 and 303 have been made available for public  
9 comments, and appropriate notice was published on or about 04/21/2016 in compliance with the 30-day  
10 notice and comment period requirement; and

11           **WHEREAS**, to allow time to implement the proposed fee changes in the computerized billing  
12 system, the amendment of Rule 301 is proposed to be effective on 01/01/2017; and

13           **WHEREAS**, proposed changes to Rules 302 and 303 will be effective immediately; and

14           **WHEREAS**, the proposed amendments are necessary to adjust fees by three percent (3%) to  
15 recover the rising costs associated with issuing licenses and permits, performing investigations,  
16 inspections, and audits, and the administrative enforcement and adjudication thereof; and

17           **WHEREAS**, regular adjustments to fees in response to rising costs, serves to minimize potentially  
18 dramatic future fee increases because incremental and periodic changes were not regularly implemented;  
19 and

20           **WHEREAS**, the MDAQMD has the authority pursuant to H&S Code §40702 to adopt, amend or  
21 repeal rules and regulations; and

22           **WHEREAS**, the MDAQMD also has the authority to adopt and amend annual fees for the  
23 evaluation, issuance and renewal of permits (H&S Code §§41240, 41330, 41512.7, 40711(a), 42310.5,  
24 42311, and 42311.2), Hearing Board activities (H&S Code §§40864, 42311 and 42364), enforcement,  
25 inspections and air monitoring (H&S Code §§41240, 41330, 40701, 40715, 41512, 41512.5, 42311,  
26 42311.2, 42707, and 42400 et seq.), planning and rule development (H&S Code §§41240,41330,  
27 41512.7,40727.2 and 42311), registration and inspection of portable equipment (H&S Code §41752 and  
28 13 CCR 2461), public records act compliance ( Government Code 6253), and toxic “Hot Spots” (H&S

**RESOLUTION \_\_\_\_\_**

1 Code §§44344.4, 44380, 44381 and 17 CCR 90703); and

2       **WHEREAS**, the proposed amendments are clear in that the meaning can be easily understood by  
3 the persons impacted by the rule; and

4       **WHEREAS**, any person or organization applying for and/or holding an MDAQMD Authority to  
5 Construct (ATC) or Permit to Operate (PTO) is affected by the proposed amendments to Rule 301; and

6       **WHEREAS**, any person or organization subject to other fees may be affected by the proposed  
7 amendments to Rule 302; and

8       **WHEREAS**, any applicant or petitioner in a proceeding before the Hearing Board is subject to the  
9 proposed amendments of Rule 303; and

10       **WHEREAS**, the proposed amendments have been developed to adjust fees by three percent (3%)  
11 to recover the rising costs associated with issuing licenses and permits, performing investigations,  
12 inspections, and audits, and the administrative enforcement and adjudication thereof, and to increase  
13 clarity for each of the affected groups; and

14       **WHEREAS**, the proposed amendments are in harmony with, and not in conflict with, or  
15 contradictory to existing statutes, court decisions, or state or federal regulations because these laws and  
16 regulations allow for the proposed amendments to the fee rules; and

17       **WHEREAS**, the proposed amendments do not impose the same requirements as any existing state  
18 or federal regulation because H&S Code §40702 allows the District to adopt, amend or repeal rules and  
19 regulations, and H&S Code §42311 and various other sections merely authorize the imposition of such  
20 fees but do not specify the types and amounts of fees to be imposed; and

21       **WHEREAS**, the proposed amendments are needed to adjust fees three percent (3%), and make  
22 minor changes for clarification and consistency; and

23       **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S Code  
24 §40725, concerning the proposed amendments to Regulation III – *Fees*; and

25       **WHEREAS**, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the  
26 proposed amendments to Regulation III – *Fees*, completed in compliance with the California  
27 Environmental Quality Act (CEQA), has been presented to the Governing Board of the MDAQMD; each  
28 member having reviewed, considered and approved the information contained therein prior to acting on

**RESOLUTION \_\_\_\_\_**

1 the proposed amendments to Regulation III – *Fees*, and the Governing Board of the MDAQMD having  
2 determined that the proposed amendments will not have any potential for resulting in any adverse impact  
3 upon the environment; and

4       **WHEREAS**, the Governing Board of the MDAQMD has considered the evidence presented at the  
5 public hearing; and

6       **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the MDAQMD finds  
7 that the proposed amendments to Regulation III – *Fees* are necessary, authorized, clear, consistent, non-  
8 duplicative and properly referenced; and

9       **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD hereby makes a  
10 finding that the Class 8 Categorical Exemption (14 CCR §15308) applies and certifies the Notice of  
11 Exemption for the proposed amendments to Regulation III – *Fees*; and

12       **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD does hereby adopt,  
13 pursuant to the authority granted by law, the proposed amendments to Regulation III – *Fees*, as set forth  
14 in the attachments to this resolution and incorporated herein by this reference; and

15       **BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption,  
16 that the Clerk of the Board is directed to file the Notice of Exemption in compliance with the provisions  
17 of CEQA.

18 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Mojave Desert Air Quality  
19 Management District by the following vote:

20 AYES:                   MEMBER:

21 NOES:                   MEMBER:

22 ABSENT:               MEMBER:

23 ABSTAIN:              MEMBER:

24 STATE OF CALIFORNIA        )  
25    )  
26 COUNTY OF SAN BERNARDINO )

SS:

**RESOLUTION \_\_\_\_\_**

1 I, Michele Baird, Clerk of the Governing Board of the Mojave Desert Air Quality Management  
2 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the  
3 same appears in the Official Minutes of said Governing Board at its meeting of June 27, 2016.

4 \_\_\_\_\_  
5 Clerk of the Governing Board,  
6 Mojave Desert Air Quality Management District.  
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## RULE 301 Permit Fees

### (A) General

#### (1) Purpose

- (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II - *Permits* and Regulation XIII - *New Source Review*.

#### (2) Applicability

- (a) Any person subject to the provisions of Regulation II - *Permits* or Regulation XIII - *New Source Review* shall pay the fees set forth in this rule.
- (b) Federal, state or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with §6103); Part 4, Division 26 and Part 6, Division 26 of the Health and Safety Code (commencing with §44300).

#### (3) Limitations

- (a) Revenue derived from permit fees shall be limited as required by Chapter 4 of Part 4, Division 26 of the Health and Safety Code.

#### (4) Effective Date

- (a) The amendments to this rule adopted on 06/27/2016 shall be effective on 01/01/2017.

(B) Requirements and Procedures

- (1) Fees, as specified herein, are required for the following activities relating to permits:
  - (a) The filing of a permit application.
  - (b) The evaluation of new or modified sources.
  - (c) The issuance of authority to construct(s).
  - (d) The issuance of permit(s) to operate.
  - (e) The issuance of duplicate or modified permits required by any of the following circumstances:
    - (i) Loss or destruction of a permit.
    - (ii) Change of equipment location to a site other than that described in the permit.
    - (iii) Transfer of ownership of the permit.
    - (iv) Alterations or additions to equipment as listed on the permit.
  - (f) Annual permit renewal.
- (2) Fees shall be paid when due as specified herein:
  - (a) Fees shall be invoiced at least thirty (30) days before the expiration date as shown on the permit. The owner/operator will be notified by First Class mail of the amount to be paid and the due date of the invoice.
  - (b) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date or expire on its expiration date, whichever is sooner, and will thereafter no longer be valid.
  - (c) Within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever is sooner, if the applicable fees remain unpaid the holder of the permit shall be notified in writing by First Class mail:
    - (i) That the permit has become delinquent for non payment of fees and is no longer valid; and
    - (ii) Of the consequences of continuing to operate with an invalid permit.
  - (d) If the permit is delinquent for more than six (6) months the permit shall be terminated and become inactive in District records.

(3) Reinstatement of Permits

- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to Regulation III – *Fees* and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).
- (b) A permit which has become inactive may be reinstated by either of the following:
  - (i) The submittal of a new application, accompanied by payment of all previously accrued fees, fines and penalties, including but not limited to other fees imposed pursuant to Regulation III – *Fees* and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400) and the payment of any new fees which would apply to a similar new application; or
  - (ii) By submitting a written request to the APCO to reinstate the permit stating good cause for such reinstatement. The APCO or his or her designee shall review the request and may direct in writing that the permit be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).

(4) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
  - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.
  - (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.
- (b) Refunds shall be pro-rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.
- (c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.

- (d) The following fees are non-refundable:
  - (i) The filing fee set forth in section (C)(1).
  - (ii) Initial permit fees for Negative Air Machines and HEPA vacuums pursuant to section (E)(7)(h).

(5) Pro-rated fees

- (a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:
  - (i) Initial Permit Fee;
  - (ii) Annual Permit to Operate Renewal Fee;
  - (iii) Permit to Construct Renewal Fee;
  - (iv) Alteration, Modification, Addition or Revision Fees.
- (b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.
- (c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.

(6) Credit Card Payment

- (a) If any person wishes to pay using a credit card, that person shall also pay the processing costs imposed by the company processing the transaction.

(C) Fees

(1) Filing Fee

- (a) Except as otherwise provided, any person who applies for the issuance of a new or modified permit shall be assessed a fee of \$269.00. This filing fee shall be submitted with the application.
- (b) The filing fee is non-refundable and shall not be applied to any subsequent application.
- (c) Applications shall not be accepted unless they are accompanied by the filing fee.
- (d) Applications for asbestos remediation equipment (including negative air machines and HEPA vacuums) shall not be accepted unless they are accompanied by the filing fee and annual permit fee as specified in section (E)(7)(h).

(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application on or after January 1, 1986, which is related to projects to construct or modify any of the following shall be assessed a project evaluation fee for complex sources.
- (i) Equipment associated with landfills;
  - (ii) Equipment associated with resource recovery projects;
  - (iii) Equipment associated with energy cogeneration projects;
  - (iv) Equipment associated with electrical power plants;
  - (v) Equipment associated with hazardous and toxic material and/or waste disposal or treatment facilities;
  - (vi) Equipment subject to the provisions of District Rule 1303 Section (B);
  - (vii) Equipment with emissions of a Hazardous Air Pollutant requiring a Health Risk Assessment pursuant to District Rule 1320 subsection (E)(3) or a case-by-case MACT determination pursuant to District Rule 1320 subsection (F)(2);
  - (viii) Equipment subject to provisions of the Prevention of Significant Deterioration Program as administered by U.S. Environmental Protection Agency or District Rule 1600; and
  - (ix) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these rules or regulations would require over twenty-four (24) hours of staff time to complete.
- (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within thirty (30) days of written notification by the District that the application is subject to this fee.
- (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
- (i) This fee shall be calculated at a labor rate of \$93.00 per hour plus actual expenses.
  - (ii) The fee shall accrue and be applied against the deposit.
  - (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit; the remainder of the deposit will be returned to the applicant.
  - (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
    - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
    - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.

- (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
  - (e) Actual expenses of the District include project notice fees which are incurred on behalf of public project notices.
  - (f) The provisions of subsection (B)(2) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (3) Initial Permit Fee
- (a) Except as otherwise provided in this rule, any person who applies for a permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth herein.
    - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
    - (ii) For applications where multiple schedules may be applicable to a particular piece of equipment the APCO shall determine the appropriate schedule to be applied.
  - (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.
    - (i) Notice may be given by personal service, electronically, or by First Class mail.
- (4) Annual Permit to Operate Renewal Fee
- (a) A Permit to operate shall be annually renewable, upon payment of fees.
  - (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules herein.

- (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (B) above.

(5) Authority to Construct Renewal Fee

- (a) An authority to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
- (b) The authority to construct renewal fee shall be calculated pursuant to the schedules herein.
  - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate authority to construct renewal fee. Such alternate authority to construct renewal fee shall not be less than the highest authority to construct renewal fee for any single alternative scenario set forth in the application and shall not be more than the sum of the authority to construct renewal fees for all alternative scenarios set forth in the application.
  - (ii) For applications where multiple schedules may be applicable to a particular piece of equipment the APCO shall determine the appropriate schedule to be applied.
- (c) An authority to construct may only be renewed for two (2) years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.
- (d) The authority to construct renewal fee shall be invoiced as specified in Section (B) above.
- (e) When construction is completed prior to the expiration of the authority to construct, the authority to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the authority to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (B) above.

(6) Change of Location or Ownership Fees

- (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.
  - (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also

creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.

- (ii) The person will be notified by mail, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
- (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.

(b) Permits, pursuant to the provisions of District Rule 209, are only valid to the person named on the permit.

- (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of \$153.00 for each permit being transferred from one person to another.
- (ii) The filing fee set forth in subsection (C)(1) are waived for applications solely requesting a change of ownership.
- (iii) The transfer fee for applications solely requesting a change of ownership is due at the time the application is filed.

(c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alteration(s), addition(s) or revision(s) to the permit shall be assessed either the fees set forth in this Section or in subsection (C)(7) whichever is greater.

(7) Alteration, Modification, Addition or Revision Fees

(a) Any person who applies for a permit requesting alteration(s), modification(s), addition(s), or revision(s) of the permit resulting from a change to equipment included on a currently valid permit shall be assessed a filing fee pursuant to subsection (C)(1) above and a permit revision fee.

(b) The permit revision fee shall be calculated as follows:

- (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous year's annual permit to operate renewal fee, pro-rated, for the period between the date of issuance for the permit containing the alteration addition or revisions, and the original permit(s) expiration date.

(c) The permit revision fee shall be invoiced as set forth in Section (B) above.

(d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alteration(s), addition(s) or revision(s) to the permit shall be assessed either the fees set forth in this Section or in subsection (C)(6), whichever is greater.

- (8) Fees Applicable when Permit Granted or Denied by Hearing Board
- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this rule.
  - (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
  - (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.
- (9) Signed Duplicate or Corrected Permit Fees
- (a) A request for a signed duplicate permit or for administrative corrections to a permit, shall be made in writing by the permit holder.
  - (b) The permit holder shall be assessed a fee of \$73.00 for issuing each signed duplicate or corrected permit.
  - (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.
- (10) Previously Unpermitted or Altered Equipment Fee
- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with District Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
  - (b) The previously unpermitted equipment fee shall be calculated as fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
  - (c) The unpermitted equipment fee is due when the permit to operate is granted.
  - (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.
  - (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in District Rule 219.
  - (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.

(11) CEQA Review Fees

- (a) An application for a permit which is associated with a project subject to review under the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.) shall pay, in addition to any other fees applicable pursuant to this rule, the District's cost of performing all environmental evaluation required pursuant to CEQA. Such costs shall include, but are not limited to:
  - (i) Cost of preparing any environmental study or Environmental Impact Report including the costs of any outside consulting assistance which the District may employ in connection with the preparation of such study or report;
  - (ii) Cost of publication and circulation of any required notice;
  - (iii) Cost of filing any required documents with another agency; and
  - (iv) Reasonable internal costs, including overhead, of processing and reviewing the required environmental documentation.

(D) (Reserved)

(E) Schedules for Initial Permit Fee and Annual Permit Fee

(1) Schedule 1, Motor Horsepower

Any emission generating process using motors as a power source shall be assessed a permit fee based on the cumulative total rated horsepower of all equipment in the process train, with the exception of air pollution control or other equipment that may operate independently of the process, in accordance with the following schedule:

<u>HORSEPOWER RATING (hp)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 40 hp	\$338.72
(b) 41 to and including 200 hp	\$116.02 plus \$5.57 per each hp
(c) 201 to and including 1,000 hp	\$700.65 plus \$26.45 per each 10 hp
(d) Greater than 1,000 hp	\$2,023.04 plus \$13.23 per each 10 hp

(2) Schedule 2, Fuel Burning Equipment

Any emission generating process in which fuel is burned, for the production of useful power, except for engine driven generators used for the intermittent production of electrical power not for resale, shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel plus 2,550 Btu for each horsepower of associated motor driven equipment, in accordance with the following schedule:

BRITISH THERMAL UNITS (BTU)  
PER HOUR

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 250,000 Btu	\$116.02 plus \$163.97 per each 100,000 Btu
(b) 250,001 to and including 1,000,000 Btu	\$293.88 plus \$92.79 per each 100,000 Btu
(c) 1,000,001 to and including 4,000,000 Btu	\$873.86 plus \$34.79 per each 100,000 Btu
(d) 4,000,001 to and including 10,000,000 Btu	\$1,152.27 plus \$27.86 per each 100,000 Btu
(e) 10,000,001 to and including 100,000,000 Btu	\$3,178.42 plus \$75.79 per each 1,000,000 Btu
(f) Greater than 100,000,000 Btu	\$8,823.76 plus \$19.34 per each 1,000,000 Btu

(3) Schedule 3, Electrical Energy

Any emission generating process which uses electrical energy, with the exception of motors covered in Schedule 1, shall be assessed a permit fee based on the total kilovolt-ampere (kVA) ratings, in accordance with the following schedule:

KILOVOLT-AMPERE (kVA)

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 45 kVA	\$310.86
(b) Greater than 45 kVA	\$296.96 plus \$0.33 per each kVA

(4) Schedule 4, Incinerator Equipment

Any equipment designed and used primarily to dispose of combustible refuse by wholly consuming the material charged leaving only the ashes or residue shall be assessed an initial and annual permit fee based on the maximum horizontal, inside, cross sectional area, in square feet, of the primary combustion chamber. The fee shall be \$310.86 plus \$20.12 per square foot.

(5) Schedule 5, Stationary Containers

Any stationary tank, reservoir, or other container with the exception of stationary storage tanks covered in Schedule 6 (subsection (E)(6)) herein, shall be assessed a permit fee on the following schedule of capacities in gallons or cubic equivalent:

GALLONS

INITIAL AND ANNUAL PERMIT FEE

(a) Up to and including 10,000 gallons	\$296.96
(b) 10,001 to and including 100,000 gallons	\$258.28 plus \$3.88 per each 1,000 gallons
(c) 100,001 to and including 2,000,000 gallons	\$569.18 plus \$7.57 per each 10,000 gallons
(d) Greater than 2,000,001 gallons	\$1,701.35 plus \$19.17 per each 100,000 gallons

(6) Schedule 6, Retail Gasoline Dispensing Equipment

Any fueling equipment used to dispense gasoline (as defined in District Rule 461 subsection (B)(2)) at a single retail location, including but not limited to, stationary gasoline storage tanks, dispensers, and vapor recovery systems where required, shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) \$48.56 per single product nozzle.
- (b) \$48.56 per product for each multi-product nozzle.

(7) Schedule 7, Miscellaneous Permit Fees

Permits to operate the following equipment shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) Each permit of a dry cleaning plant: \$301.60.
- (b) Test Stand, Intermittent: \$301.60.
- (c) Spray coating equipment operated outside of a control enclosure: \$301.60.
- (d) Vapor degreasing equipment using non- Volatile Organic Compound (VOC) material only: \$301.60.
- (e) Portable abrasive blasting equipment: \$301.60.
- (f) Mobile asphalt or coal tar pitch roofing equipment with a capacity greater than 500 gallons: \$301.60.
- (g) Internal combustion engines of greater than or equal to fifty (50) brake horsepower driving electrical generators which meet any of the following criteria:
  - (i) Used at facilities normally serviced with commercial power, where the generators are used exclusively as emergency units during loss of commercial power: \$301.60.
  - (ii) Used at facilities normally serviced with an alternative energy supply including, but not limited to, photovoltaic power, where the generators are used exclusively as emergency units during loss of such alternative energy source but no more than 200 hours total per year: \$301.60.
  - (iii) Used to drive a fire pump or deluge pump that is used exclusively during fire emergency or testing: \$301.60.
- (h) Air Pollution Control Devices: \$270.67
  - (i) Air Pollution Control Devices for the purpose of this subsection are those devices which are not a part of the basic process train.

For the purposes of this subsection such devices do not include product separators.

(ii) Collection systems and conveyors associated with Air Pollution Control Devices as defined in this subsection shall not be considered as part of the air pollution control device.

(i) Any piece of equipment which has the potential to emit pollutants, but not included elsewhere in these schedules: \$301.60.

(8) Schedule 8, Direct-Fired Production Equipment

Any emission generating process in which fuel is burned in combination with other materials for the purpose of producing a salable product, shall be assessed a permit fee based on the total equivalent fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel plus 2,550 Btu for each horsepower of associated motor driven equipment, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS (BTU) PER HOUR</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 Btu	\$116.02 plus \$163.97 per each 100,000 Btu
(b) 250,001 to and including 1,000,000 Btu	\$293.88 plus \$92.79 per each 100,000 Btu
(c) 1,000,001 to and including 4,000,000 Btu	\$873.86 plus \$34.79 per each 100,000 Btu
(d) 4,000,001 to and including 10,000,000 Btu	\$1,152.27 plus \$27.86 per each 100,000 Btu
(e) 10,000,001 to and including 100,000,000 Btu	\$3,178.42 plus \$75.79 per each 1,000,000 Btu
(f) Greater than 100,000,000 Btu	\$8,823.76 plus \$19.34 per each 1,000,000 Btu

(9) Schedule 9, Engine Driven Electric Generators

Generators used for the intermittent generation of electricity, other than for resale, where such generators provide power at the facility to assure continued operational capability should there be a loss of commercial power and/or to obtain a favorable commercial rate schedule shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, using gross heating values of the fuel, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS (BTU) PER HOUR</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 Btu	\$116.02 plus \$163.97 per each 100,000 Btu
(b) 250,001 to and including 1,000,000 Btu	\$293.88 plus \$92.79 per each 100,000 Btu
(c) 1,000,001 to and including 4,000,000 Btu	\$873.86 plus \$34.79 per each 100,000 Btu
(d) 4,000,001 to and including 10,000,000 Btu	\$1,152.27 plus \$27.86 per each 100,000 Btu
(e) 10,000,001 to and including 100,000,000 Btu	\$3,178.42 plus \$75.79 per each 1,000,000 Btu
(f) Greater than 100,000,000 Btu	\$8,823.76 plus \$19.34 per each 1,000,000 Btu

(10) Schedule 10, Stand-By Equipment

Equipment used exclusively to provide continued operation of a process during maintenance or repair of an existing piece of regularly permitted equipment, shall be assessed an initial and annual permit fee of fifty percent (50%) of the appropriate fee schedule for that type of equipment or \$270.67, whichever is the greater.

(11) Schedule 11, Landfills

Any landfill required to install a gas collection system pursuant to the provisions of 40 CFR 60 Subpart Cc (commencing with 40 CFR 60.30Cc) or 40 CFR 60 Subpart WWW (commencing with 40 CFR 60.750), shall be assessed an initial and annual permit fee of \$1,490.23 per gas collection facility.

[SIP: Not in SIP.]

## Rule 302 Other Fees

### (A) General

#### (1) Purpose

- (a) This rule sets forth fees which may be charged for various activities, documents and services, including but not limited to, provision of publications, performing analysis, filing, evaluation and enforcement of plans and State Mandated Fees.

#### (2) Applicability

- (a) This rule applies to

- (i) Any person subject to a fee listed herein.
- (ii) Any of the following governmental entities subject to a fee listed herein.
  - a. Federal, state and local government agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety (H&S) Code (commencing with Section 41500) and Part 6, Division 26 of the H&S Code (commencing with Section 44300).

### (B) Definitions

The definitions contained in District Rule 102 shall apply unless the term is otherwise defined herein:

- (1) “Demolition Project” – The wrecking or taking out of any load-supporting structural member of a Structure subject to 40 CFR 61, Subpart M together with any related handling operations, or the intentional burning of such Structure.
- (2) “Emissions Unit” – Any article, machine, equipment, other contrivance or combination thereof which emits or has the potential to emit air contaminants.
- (3) “Facility” – Any building, structure, emissions unit, combination of emissions units, which emits or may cause the issuance of air contaminants and which is:
  - (a) Located within the District on one (1) or more contiguous or adjacent properties; and

- (b) Under the control of the same person (or by persons under common control); and
  - (c) Belong to the same industrial grouping as determined by being within the same two digit Standard Industrial Classification Code (SIC) or equivalent classification system.
  - (d) For the purpose of this definition a grouping meeting the requirements above but connected only by land carrying a pipeline shall not be considered a single Facility.
- (4) “Installation” – Any building or structure or any group of buildings or structures at a single Demolition Project or Renovation Project site that are under control of the same owner or operator (or owner or operator under common control).
  - (5) “Plan or Report” – A document required to be submitted to the District by District rule or regulation; or state or federal law or regulation, providing a description of actions or procedures necessary to accomplish the particular objective and containing those items set forth in the underlying requirement.
  - (6) “Source Test Protocol” – A test work plan or protocol includes a process description, field sampling methods, analytical test methods, test schedules, equipment calibration and a results presentation format used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.
  - (7) “Source Test Report” – A document that provides the analytical results from an emission source test used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream. The report should contain an executive summary, field sampling methods, analytical test methods, equipment calibration and a results presentation to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.
  - (8) “Structure subject to 40 CFR 61, Subpart M” – Any institutional, commercial, public, industrial, or residential structure, Installation, or building (including any structure, Installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four (4) or fewer dwelling units); any ship; and any active or inactive waste disposal site. For the purposes of this definition, any building, structure, or Installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, Installation or building that was previously subject to 40 CFR 61, Subpart M is not excluded, regardless of its current use or function.
  - (9) “Renovation Project” – Altering a Structure subject to 40 CFR 61, Subpart M or one or more Structure(s) subject to 40 CFR 61, Subpart M components in any way, including the removal of asbestos-containing material from a Structure subject to 40 CFR 61, Subpart M component. Operations in which load-supporting structural members are wrecked or taken out are Demolition Projects.

(C) Payments, Adjustments and Refunds

- (1) Fees shall be paid when due as specified herein.
  - (a) Analysis Fees and Monitoring Device Fees
    - (i) Analysis and Monitoring Device fees shall be invoiced as follows:
      - a. Directly by the entity retained by the District to perform the test and or analysis;
      - b. By the District within thirty (30) days of receipt of an invoice by the District for testing and/or analysis services; or
      - c. By the District within thirty (30) days of completion of the analysis of testing methodology and review of test results.
    - (ii) If invoiced by the District, the person ordered to provide the analysis or test by the Air Pollution Control Officer (APCO) will be notified by First Class mail of the amount to pay and the due date of the invoice.
    - (iii) If the fee is not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this rule for any source, whether or not subject to permit requirements.
  - (b) Asbestos Demolition/Renovation Fees
    - (i) Asbestos Demolition/Renovation Fees shall be paid at the time of the submittal of the Demolition or Renovation notification.
    - (ii) Permit fees for Air Pollution Control Devices shall be paid pursuant to the provisions of District Rule 301.
    - (iii) If subsequent charges for Asbestos Demolition/Renovation Fees apply the District shall be invoiced within ten (10) days of the change resulting in the subsequent charges as follows:
      - a. The invoice shall be sent via First Class mail to the person submitting the notification at the address listed therein.
      - b. Payment of the fees shall be due thirty (30) days from the date of mailing.
      - c. If the fee is not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this rule for any source, whether or not subject to permit requirements.
  - (c) Asbestos Waste Disposal Site Fees
    - (i) Asbestos Waste Disposal Site Fees shall be invoiced and paid at the same time and in the same manner as permit fees set forth in District Rule 301.

- (d) Certificate of Occupancy Fee
  - (i) Certificate of Occupancy Fee, if applicable, shall be paid prior to delivery of the official documentation showing the District's approval of the Certificate of Occupancy.
  
- (e) Emission Reduction Credit (ERC) Fees
  - (i) The initial fee for the issuance, encumbrance, transfer or reclassification of ERCs shall be paid upon submission of the application for issuance, encumbrance, transfer or reclassification.
  - (ii) Analysis fees, if applicable, for the issuance of ERCs shall be invoiced within ten (10) days of the completion of the analysis as follows:
    - a. The invoice shall be sent via First Class mail to the applicant.
    - b. Payment of the fees shall be due thirty (30) days from the date of mailing.
    - c. If the fee is not paid within thirty (30) days of the due date of the invoice shall refrain from issuing the ERCs.
  
- (f) Plan and Report Fees
  - (i) Plan and Report filing and evaluation fees shall be paid at the time of submission of the Plan or Report.
  - (ii) If a Plan or Report analysis exceeds ten (10) hours of District staff time then the District shall invoice the fee within ten (10) days of completion of the analysis but prior to the issuance of the approval of the Plan or Report.
    - a. The invoice shall be sent via First Class mail to the contact person indicated in the Plan or Report.
    - b. Payment of Plan or Report analysis Fee shall be due in thirty (30) days from the date of mailing.
    - c. If the fee is not paid within thirty (30) days of the due date of the invoice then the District shall refrain from approving the Plan or Report.
  - (iii) If a Plan or Report requires an annual renewal the District shall invoice the renewal fee at least thirty (30) days prior to the expiration date.
    - a. The invoice shall be sent via First Class mail to the contact person indicated in the Plan or Report.
    - b. Payment of annual review fee shall be due in thirty (30) days from the date of mailing.
    - c. Fees not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this rule for any source, whether or not subject to permit requirements.

- (g) Publication Fees
  - (i) Publication fees shall be paid prior to the delivery of the publication requested.
- (h) State Mandated Fees
  - (i) State Mandated Fees shall be due and paid as specified in the regulation which imposes the mandate and allows the District to collect the state imposed fees for such mandate.
- (2) Credit Card Payments
  - (a) Fees may be paid by credit card directly from the District website.
  - (b) If any person wishes to pay using a credit card, the person shall also pay any costs imposed by the company processing the credit card transaction.
- (3) Refunds
  - (a) Fees set forth in this rule are non-refundable unless otherwise listed below.
  - (b) Asbestos Fee Refunds
    - (i) Applicants who have paid Asbestos Fees and submitted a notification for a project that is subsequently not accomplished, may request a refund of the fee.
    - (ii) The amount of the refund shall be calculated as the fee paid minus any amount expended by the District in labor to review, analyze, inspect or otherwise deal with the notification at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) or the fee paid minus one (1) hour at the specified labor rate whichever amount is less.
  - (c) ERC Fee Refunds
    - (i) If an application for the issuance of ERCs is withdrawn by the applicant within sixty (60) days of the date of the submittal of the application, the applicant shall be entitled to a refund of sixty percent (60%) of the application fee.
- (4) Service Charge for Returned Checks
  - (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.

(D) Analysis Fees

- (1) Any person ordered by the APCO to provide an analysis of materials used by, or the determination of emissions from, any source of air contaminants shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the District or retained by the owner/operator to perform the tests.
- (2) Any owner or operator of a facility from whom the District collects a sample shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the District to perform the tests.
- (3) Any person subject to the provisions of subsection (D)(1) or (2) above shall also be assessed a fee for the reasonable time required by District staff to review the testing methodology and results.
  - (a) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.
- (4) Data and sample collection methods, analysis methods and the qualifications of testing personnel or firms shall be determined by the APCO.

(E) Asbestos Demolition/Renovation Fees

- (1) Any person who is required by the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos as set forth in 40 Code of Federal Regulations, Part 61 (40 CFR 61), Subpart M, (and as adopted by reference in District Rule 1000 subsection (C)(2)(m)) to submit a written notice of intention to demolish, including but not limited to Demolitions Projects where no asbestos is present, and/or Demolition Projects by fire, shall pay a fee of \$129.00.
  - (a) This fee may be waived by the APCO in those cases where a single notification is submitted for a Renovation and subsequent Demolition on the same building, provided that the notification meets all the requirements of 40 CFR 61, Subpart M for both projects.
- (2) Any person who is required by the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos as set forth in 40 Code of Federal Regulations, Part 61 (40 CFR 61), Subpart M, (and as adopted by reference in District Rule 1000 subsection (C)(2)(m)) to submit a written notice of intention to renovate or abate shall pay a fee calculated as follows:
  - (a) For Renovation projects involving the removal or stripping of more than 260 linear feet of pipe but less than 1,600 linear feet of pipe; or more than 160 square feet of material but less than 1,000 square feet of material, a fee of \$283.00, except as noted in subsection (E)(3).

- (b) For Renovation projects involving the removal or stripping of 1,600 linear feet or more of pipe but less than 8,000 linear feet of pipe; or 1,000 square feet or more of material but less than 5,000 square feet of material, a fee of \$489.00, except as noted in subsection (E)(3).
- (c) For Renovation projects involving the removal or stripping of 8,000 linear feet or more of pipe or 5,000 square feet or more of material, a fee of \$489.00 plus \$206.00 for each 8,000 linear feet of pipe or fraction thereof over 8,000 linear feet of pipe and for each 5,000 square feet of material or fraction thereof over 5,000 square feet of material, except as noted in subsection (E)(3).

(3) Calculation of Linear Footage

- (a) Where the outside diameter of piping insulation (wrapping) is greater than 2.35 inches, the calculation of linear footage of pipe shall be converted to square footage, the square footage of material involved to be calculated using the following equation:

$$A = \frac{3.14159 \times L \times D}{12}$$

Where:

- A = Area in square feet
- L = Linear length of piping in feet
- D = Outside diameter of pipe insulation (wrap) in inches

Such projects shall thereafter be evaluated in terms of square footage and the appropriate fee determined on the basis of total amount of material in square feet.

(4) Permit Requirements

- (a) Each High-Efficiency Particulate Arrestance (HEPA) filter or other control device used to ventilate a work area must obtain a Permit to Operate and pay the applicable fees pursuant to District Rule 301 subsections (C)(1) and (E)(7)(h) for an air pollution control device. This permit is good for one (1) year from the date issued and may be used on any project within the District as long as the project notification contains a copy of the Permit to Operate.

(5) Subsequent Charges

- (a) If in the course of a Renovation Project pursuant to 40 CFR 61, Subpart M, it is determined that the project involves the removal or stripping of material such that the project requires a greater fee than was initially proposed, the owner or operator shall pay the balance of the fee.

- (b) If an owner/operator fails to report a change in any date as required by Rule 40 CFR 61, Subpart M, and the APCO determines that such failure necessitated expenditure of additional time by the District, over and above that upon which the fee is based, then the owner or operator shall pay an additional fee at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i), billable in quarter hour increments.

(F) Asbestos Waste Disposal Site Fees

- (1) The owner/operator of an asbestos waste disposal site subject to the provisions of the NESHAP for Asbestos as set forth in 40 CFR 61, Subpart M (and as adopted by reference in District Rule 1000 subsection (C)(2)(m)) including but not limited to; active and inactive landfills; incinerators; and convection or destruction processes, shall be assessed a fee to cover the cost of the review and evaluation of plans required by law or by District rules or regulations and any inspection and monitoring requirements related thereto.
  - (a) For each facility performing disposal of asbestos-containing material for manufacturing, fabricating, demolition, renovation and/or spraying operations, the owner or operator shall pay, in addition to the fees of District Rule 301, a fee of \$1,030.00 per year.
  - (b) For each waste disposal site actively receiving asbestos-containing material for disposal which is not covered by subsection (F)(1)(a) above, the owner/operator shall pay, in addition to the applicable fees pursuant to District Rule 301 and any applicable fees pursuant to subsection (J)(4), a fee of \$1,030.00 per year.
  - (c) For each waste disposal site not actively receiving asbestos containing material for disposal but where asbestos-containing waste material was deposited, the owner/operator shall pay in addition to the applicable fees pursuant to District Rule 301 and any applicable fees pursuant to subsection (J)(4), a fee of \$206.00 per year.

(G) Certificate of Occupancy Fee

- (1) Any person required to obtain a final Certificate of Occupancy from a city or county within the District shall pay a fee of \$103.00 to the District for review of the project to ensure that the applicable portions of Regulation II – *Permits* and Regulation XIII – *New Source Review* have been met.
  - (a) This fee shall not apply to a Certificate of Occupancy required for residential structures or for any review taking less than one (1) hour of staff time to perform.

## (H) Emissions Reduction Credit (ERC) Fee

- (1) Any person applying for the issuance, transfer encumbrance and/or reclassification of Emissions Reduction Credits (ERC) pursuant to the provisions of District Rule 1402 shall pay a fee as follows:
  - (a) Any person submitting an application for ERCs pursuant to District Rule 1402 subsection (B)(1) shall pay an initial fee of \$361.00 for each application submitted, and shall pay an analysis fee based upon the actual and reasonable labor time in excess of ten (10) hours of labor, billed at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i).
  - (b) Any person submitting a document effecting an encumbrance of or transfer of ERCs pursuant to District Rule 1402 subsection (D)(2) - (4) shall pay a fee of \$77.00 for each document submitted.
  - (c) Any person who has received notification that the APCO has approved the reclassification of Class "B" ERCs to Class "A" ERCs shall pay a processing fee of \$52.00 at the time the affected Class "B" ERC certificates are submitted for conversion to Class "A" ERC certificates.
- (2) The District will not accept, process or issue an ERC certificate, record an encumbrance or process a transfer unless and until all applicable fees are paid in full.

## (I) Monitoring Device Fees

- (1) Any owner/operator of a Facility with a Continuous Emissions Monitoring System (CEMS), Continuous Opacity Monitoring System (COMS), Continuous Emission Rate Monitoring System (CERMS) or other monitoring system required by state or federal law or District rule shall be assessed a fee to cover the costs of District activities related to insuring that such devices are functioning properly. District activities include but are not limited to the inspection, certification testing, review of certification testing, review of data for quality assurance, and assistance in investigating system malfunctions.
- (2) Any owner/operator of a Facility with a CEMS, COMS, CERMS or other monitoring system required by state or federal law or District rule required to certify that such devices are functioning properly shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the owner/operator to perform the tests.
- (3) Such Monitoring Device Fee shall be calculated based upon the reasonable time required by District staff to perform the activities at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.

(J) Plan and Report Analysis Fees

(1) Air Toxics Plan and Report Analysis Fees

- (a) Any person required to submit a Comprehensive Emissions Inventory Report (CEIR), Health Risk Assessment Plan, Health Risk Assessment, Risk Reduction Plan or Risk Reduction and Audit Plan pursuant to the provisions of District Rule 1320 or 1520 shall be assessed a Plan and Report Analysis Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours.
- (b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.

(2) Dust Control Plan Analysis Fees

- (a) Any person required to submit a Dust Control Plan pursuant to the provisions of District Rules 403.1 or 403.2 shall be assessed a Dust Control Plan Analysis Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours.
- (b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.

(3) Source Test Protocol and Source Test Report Review Fees

- (a) Any person required to submit a Source Test Protocol or Source Test Report to the District pursuant to the provisions of any by District rule or regulation; or state or federal law or regulation shall be assessed a Source Test Protocol or Source Test Report Review Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours.
- (b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.

(4) Solid Waste Disposal Site Fees

- (a) Any owner/operator of a solid waste disposal site subject to H&S Code Section 41805.5 which is required to submit a Solid Waste Assessment Test (SWAT) Plan for District approval prior to conducting tests shall pay a filing fee of \$103.00.
- (b) Any owner/operator required to submit a SWAT Report following the completion of testing shall pay a filing fee of \$103.00.

- (c) Any owner/operator required to submit a SWAT Plan or Report shall also be assessed a SWAT Plan/Report Evaluation Fee.
  - (i) Such SWAT Plan/Report Evaluation Fee shall be calculated based upon the reasonable time required by District staff to review the applicable plan or report at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) plus actual expenses.

## (K) Fees for District Publications

- (1) Any person receiving a publication for which a fee is charged shall be assessed the designated fee.
  - (a) The APCO shall designate those publications, including information circulars, reports of technical work, or other reports, prepared by the District for which a fee shall be charged.
  - (b) Such fee shall be established by the APCO in a sum not to exceed the cost of preparation and distribution of such documents. Such fees shall be deposited in the general funds of the District.
  - (c) Any person shall be entitled to receive one (1) copy of any District publication without charge.
  - (d) Nothing in this subsection shall be construed to limit the rights of any person or of the District pursuant to the California Public Records Act as set forth in Chapter 3.5, Division 7 of Title 1 (commencing with §6250) of the Government Code.

## (L) State Mandated Fees

- (1) Air Toxics “Hot Spots” Information and Assessment Fees
  - (a) Any person subject to the provisions of the Air Toxics “Hot Spots” Information and Assessment Act as amended (H&S Code §§44300 et seq.) and the regulations promulgated thereunder shall be assessed an annual fee for the various state level components required by the Act. The fee schedule is set by the California Air Resources Board (CARB) and authorizes collection of the fee by the District pursuant to the provisions of the adopting regulation.
- (2) Nonvehicular Source Fees
  - (a) Any person subject to the provisions of Subchapter 3.8 of Division 3 of Title 17 of the California Code of Regulations, commencing with §90800 shall pay an annual fee as authorized by the provisions of the regulation. The fee schedule is set by CARB and authorizes collection of the fee by the District pursuant to the provisions of the adopting regulation.

(3) Portable Equipment Inspection

- (a) Any person subject to the Statewide Portable Equipment Registration Program (PERP) established by CARB pursuant to the provisions of H&S Code §§ 41750 et seq. and the regulations promulgated there under shall pay an inspection fee in the amount set forth in regulation for each registered portable engine or equipment unit inspected by the District.

(4) Other State Mandated Fees

- (a) Any person subject to the provisions of a state adopted regulation or rule that assesses a fee to cover District costs for implementing such regulation and authorizes the collection of the fee by the District shall be assessed such fee pursuant to the provisions of the adopting regulation.

## Rule 303 Hearing Board Fees

### (A) General

#### (1) Purpose

- (a) To set forth fees required for various proceedings brought before the Hearing Board.

#### (2) Applicability

- (a) This rule applies to all applicants or petitioners bringing proceedings before the Hearing Board including, but not limited to, Federal, State or local government agencies or public districts.
- (b) This rule shall not apply to petitions filed by the Air Pollution Control Officer (APCO).

### (B) Fees

#### (1) Filing Fees

- (a) Every applicant or petitioner in a proceeding before the Hearing Board shall pay to the Hearing Board, at the time of filing, a Filing Fee of \$464.00 for each petition or application.

#### (2) Daily Appearance Fee

- (a) In addition to the Filing Fee, each petitioner or applicant with a proceeding (designated by a case number) before the Hearing Board shall pay a Daily Appearance Fee of \$567.00 per hearing day.
  - (i) This fee shall apply to the initial appearance before the full Hearing Board and all following appearances which pertain to the same proceeding as designated by case number.
  - (ii) After the initial appearance, the Daily Appearance Fee shall be waived for any appearance (pertaining to the same proceeding) which has duration of less than one (1) hour.
  - (iii) This fee shall apply regardless of the duration of the hearing, when the applicant is requesting a modification to an order for abatement.
  - (iv) This fee does not apply to single member hearings provided pursuant to Health & Safety Code §§ 40824, 40285, 42351.5 or 42359.5.

- (3) Publication Fees
- (a) Upon demand and in addition to the payment of the foregoing fees, every petitioner for relief which requires published notice shall pay a fee to cover the actual cost of publication(s) of notice of hearing.
- (4) Group Variance Fees
- (a) Each petitioner included in a petition for a group variance shall pay the Filing Fee and the Excess Emissions Fee.
- (b) The Daily Appearance Fee and the Publication Fee shall be totaled and divided equally among the petitioners.
- (c) A Product Variance shall be treated as a single entity variance for the purpose of this section.
- (5) Transcript Fees
- (a) Any person requesting a transcript of the hearing shall pay the cost of such transcript. The parties to hearings and prehearing proceedings may be directed by the Hearing Board to pay the cost of transcripts necessary for the Hearing Board's determination of the matter, in such proportion as the Hearing Board may order.
- (6) Excess Emission Fee
- (a) Each applicant or petitioner for a variance from these rules and regulations shall pay to the District, if ordered by the Hearing Board, an Excess Emission Fee based on the total amount of emissions discharged.
- (i) This fee shall be calculated in accordance with the schedule set forth in Table I.
- (ii) Where the total excess emissions cannot be readily calculated, the petitioner shall work in concert with District staff to establish the amount of Excess Emission Fees to be paid. In cases where District staff determines calculations or estimations cannot be made the petitioner shall pay the Minimum Excess Emission Fee as set forth in subsection (B)(6)(c).
- (iii) In the event that more than one (1) rule limiting the discharge of the same contaminant are violated, the Excess Emission Fee shall consist of the fee for violation which will result in the payment of the greater sum. For the purposes of this subsection opacity rules and particulate mass emissions shall not be considered rules limiting discharge of the same contaminant.
- (iv) The Excess Emission Fee shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions.

- (v) If the amount of the excess emissions fee is less than the Minimum Excess Emission Fee the applicant or petitioner shall pay the higher amount.
- (vi) The Hearing Board may adjust the Excess Emission Fee based on evidence regarding emissions presented at the time of the hearing.
- (vii) The provisions of this subsection shall apply only to those rules or permit conditions that specify quantitative emission limits.

(b) Excess Visible Emission Fee

- (i) Each applicant or petitioner for a variance from District Rule 401 or Health and Safety Code Section 41701 shall pay to the District, if ordered by the Hearing Board, a Excess Visible Emission Fee based on the difference between the percent opacity allowed by District Rule 401 and the percent opacity of the emissions allowed by the variance from the source or sources operating under variance in accordance with the schedule set forth in Table II.
- (ii) In the event that an applicant or petitioner is exempt from the provisions of District Rule 401, the applicant or petitioner shall pay a fee calculated based upon the difference between the opacity allowed by variance and the opacity allowed under the provisions of Health and Safety Code, Section 41701, in accordance with the schedule set forth in Table II.
- (iii) The Excess Visible Emission Fee shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess visible emissions.
- (iv) The Hearing Board may adjust the Excess Visible Emissions Fee based on evidence regarding emissions presented at the time of the hearing.

(c) Minimum Excess Emission Fee

- (i) When a variance is granted from a rule or rules which limit the discharge of air contaminants, such that an Excess Emission Fee is due, a fee of at least \$103.00 per day, per source of emissions, shall be imposed and remitted.

(C) Payments Adjustments and Refunds

(1) Adjustment of Fees

- (a) If after the term of a variance for which emissions fee have been paid, the applicant or petitioner can establish, to the satisfaction of the APCO, that the emissions were actually less than those upon which the fee was based, or the Excess Emissions Fee calculations are otherwise incorrect, a pro rata refund shall be made.

- (i) If the adjusted Excess Emissions Fee is less than the Minimum Excess Emission Fee then the applicant or petitioner shall pay the higher amount, unless otherwise ordered by the Hearing Board.
- (2) Discretionary Powers
  - (a) Any person may allege that payment of any of the fees within this rule, excluding publication fees, will cause an unreasonable hardship, and may be excused from payment of such fees or a portion of such fees, by order of the Hearing Board if the Hearing Board, in its discretion, determines after hearing evidence thereon that payment of such fees would cause financial or other unreasonable hardship to the applicant or petitioner.
- (3) Emission Fee Refund
  - (a) In the event that the petition is withdrawn or the hearing is not held for any other reason, or the variance is denied, the applicant or petitioner shall be entitled to a full refund of the emission fees.
- (4) Fee Payment
  - (a) Filing Fees are due upon the filing of the petition.
  - (b) Daily Appearance Fees and Publication Fees and Transcript are due and payable within fifteen (15) days of notification of the amount due. Petitioners shall be notified in writing of the amount due.
  - (c) Excess Emissions Fees, Excess Visible Emissions Fees and Minimum Excess Emissions Fees as calculated on the petition, or ordered by the Hearing Board at the variance hearing, are due and payable within fifteen (15) days of notification of calculation and amount of such fee. Applicants or petitioners shall be notified in writing of the calculation and the amount due.
  - (d) Adjustments increasing the amount of the Excess Emissions Fee, Excess Visible Emission Fee or Minimum Excess Emission Fee, following District staff's verification of the emissions are due and payable within fifteen (15) days of notification of the amount due. Petitioners shall be notified in writing of the amount due.
  - (e) Notification may be given by personal service or by deposit in the First Class mail and shall be considered effective upon the date of personal service or five (5) days from the date of mailing.

- (f) For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.
- (g) Invalidation for Failure to Pay Fees
  - (i) Failure to pay any fee when due shall automatically invalidate the variance.
- (h) Request for Time Extension of Payment Due
  - (i) Whenever this rule requires fees to be paid by a certain date, in order to avoid invalidation of a variance or refusal of acceptance of other petitions, the applicant or petitioner may, for good cause, request the APCO to grant an extension of time, not to exceed ninety (90) days, within which the fees shall be paid. Any request for extension of time shall be presented in writing, and accompanied by a statement of reasons why the extension should be granted.
- (i) The Hearing Board, upon good cause shown, may authorize incremental payments of Excess Emission Fees, Excess Visible Emission Fees or Minimum Excess Emission Fees.
- (j) Service Charge for Returned Check
  - (i) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.
- (5) Filing Fee Refunds
  - (a) The Filing Fee or a portion of the Filing Fee may be refunded to the petitioner in the following circumstances:
    - (i) When the Hearing Board reverses the decision of the APCO in an appeal from denial or a conditional approval of a Authority to Construct or a Permit to Operate.
    - (ii) When the petition is withdrawn, and the applicant or petitioner notifies the Hearing Board in writing not less than four (4) days prior to the scheduled appearance, or the hearing is not held for any other reason, the applicant or petitioner shall be entitled to a refund of fifty percent (50%) of the filing fee.

(6) Waiver of Fees

- (a) All fees associated with this rule shall be waived for any petition for a variance filed as the result of any event declared to be a “state of emergency” by the local, state, or federal authorities.

TABLE I

SCHEDULE OF EXCESS EMISSIONS FEES

<u>AIR CONTAMINANT</u>	<u>DOLLARS PER TON</u>
Total organic gases, except those containing sulfur	\$103.00
Carbon monoxide	\$2.00
Oxides of nitrogen (expressed as nitrogen dioxide)	\$103.00
Oxides of sulfur (expressed as sulfur dioxide)	\$103.00
Particulate matter	\$103.00

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TABLE II  
SCHEDULE OF EXCESS VISIBLE EMISSION FEE

For each source with opacity emissions in excess of twenty (20) percent, the allowable limit set forth in District Rule 401, or Section 41701 of the State Health and Safety Code, the fee is calculated as follows:

DISTRICT RULE 401

$$Fee = (Opacity^* \text{ equivalent} - 20) \times \text{number of days allowed by variance} \times \$3.00$$

HEALTH AND SAFETY CODE SECTION 41701

$$Fee = (Opacity^* \text{ equivalent} - 40) \times \text{number of days allowed by variance} \times \$3.00$$

\*Where "Opacity" equals maximum opacity of emissions, in percent of equivalent opacity in terms of Ringelmann numbers, allowed by the variance.

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**Draft**  
**Staff Report**  
**Regulation III – Fees**

**Proposed Amendments to**  
Rule 301 – *Permit Fees*  
Rule 302 – *Other Fees*  
Rule 303 – *Hearing Board Fees*

**Heard May 23, 2016**  
**Continued to June 27, 2016**

14306 PARK AVE, VICTORVILLE, CA 92392-2310  
PHONE: (760) 245-1661  
FAX: (760) 245-2699

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## Abbreviations and Acronyms

ATC	Authority to Construct
AVAQMD	Antelope Valley Air Quality Management District
BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CPI	Consumer Price Index
CTG	Control Techniques Guideline
CFR	Code of Federal Regulations
FCAA	Federal Clean Air Act
FND	Federal Negative Declaration
H&S Code	California Health and Safety Code
FONA	Federal Ozone Non-attainment Area
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NAAQS	National Ambient Air Quality Standard
NO <sub>x</sub>	Oxides of Nitrogen
O <sub>3</sub>	Ozone
PTO	Permit to Operate
RACT	Reasonably Available Control Technology
SBCAPCD	San Bernardino County Air Pollution Control District
SCAQMD	South Coast Air Quality Management District
SIP	State Implementation Plan
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

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## STAFF REPORT

### Regulation III – Fees

#### 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

On 07/01/93 the Mojave Desert Air Quality Management District (MDAQMD) was created by statute and assumed all the air pollution control responsibilities the San Bernardino County Air Pollution Control District (SBCAPCD). The rules in effect at that time remained in effect until such time as the Governing Board of the MDAQMD officially changed them. The MDAQMD Governing Board, at its very first meeting, reaffirmed all the rules and regulations of the SBCAPCD. Some of the rules contained in Regulation III – Fees have been subsequently amended, consolidated and rescinded.

The following rules of Regulation III are proposed for amendment:

- Rule 301 – *Permit Fees* as last amended 06/22/15; Amend to adjust fees three percent (3%), and make minor changes for clarification and consistency.
- Rule 302 – *Other Fees* as last amended 06/22/15; Amend to adjust fees by three percent (3%), and make minor changes for clarification and consistency.
- Rule 303 – *Hearing Board Fees* as last amended 06/22/15; Amend to adjust fees by three percent (3%), and make minor corrections for clarification.

Adjustments in fees are required from time to time to ensure that the costs are aligned with the reasonable regulatory costs of the programs they support. The proposed three percent (3%) fee adjustment to Rule 301 – *Permit Fees*, Rule 302 – *Other Fees*, and Rule 303 – *Hearing Board Fees* are designed to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

Public hearings on the budget, the proposed fee adjustment to Rules 301, 302 and 303 will be held on 05/23/2016 and will be continued to 06/27/2016 to receive comment from members of industry and the general public. Proposed amendments to Rules 301, 302 and 303 have been made available for public comments, and appropriate notice was published on or about 04/21/2016 in compliance with the 30-day notice and comment period requirement.

To allow time to implement the proposed fee changes in the computerized billing system, the amendment of Rule 301 is proposed to be effective on 01/01/2017. Proposed changes to Rules 302 and 303 will be effective immediately.

### III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Mojave Desert Air Quality Management District adopt the proposed amendments to Rule 301 – *Permit Fees*, Rule 302 – *Other Fees* and Rule 303 – *Hearing Board Fees* and approve the appropriate California Environmental Quality Act (CEQA) documentation.

#### IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment of Regulation III – *Fees* rules. 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
- Non-duplication
- 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:**

- Elements as set forth in applicable Federal law or regulations.

##### **CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS (CEQA):**

- Ministerial Action
- Exemption
- Negative Declaration
- Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

##### **SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):**

- Environmental impacts of compliance.
- Mitigation of impacts.
- Alternative methods of compliance.

##### **OTHER:**

- Written analysis of existing air pollution control requirements
- 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 amendment of Regulation III. These are actions that need to be performed and/or information that must be provided in order to amend the rules in a procedurally correct manner.

#### 1. State Findings Required for Adoption of Rules & Regulations:

Before adopting, amending, or repealing a rule or regulation, the Governing Board of the MDAQMD 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:

Rules 301, 302 and 303 are proposed for amendment to adjust fees by three percent (3%) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

##### b. Authority:

The District has the authority pursuant to California Health and Safety Code (H&S Code) §40702 to adopt, amend or repeal rules and regulations. The MDAQMD also has the authority to adopt and amend annual fees for the evaluation, issuance and renewal of permits (H&S Code §§41240, 41330, 41512.7, 40711(a), 42310.5, 42311, and 42311.2), Hearing Board activities (H&S Code §§40864, 42311 and 42364), enforcement, inspections and air monitoring (H&S Code §§41240, 41330, 40701, 40715, 41512, 41512.5, 42311, 42311.2, 42707, and 42400 et seq.), planning and rule development (H&S Code §§41240,41330, 41512.7,40727.2 and 42311), registration and inspection of portable equipment (H&S Code §41752 and 13 CCR 2461), public records act compliance ( Government Code 6253), and toxic “Hot Spots” (H&S Code §§44344.4, 44380, 44381 and 17 CCR 90703).

c. Clarity:

The proposed amendments to Regulation III are clear in that they are written so that the persons subject to the rules can easily understand the meaning. Any person or organization applying for and/or holding an MDAQMD Authority to Construct (ATC) or Permit to Operate (PTO) is affected by the proposed amendments to Rule 301. Any person or organization subject to other fees may be affected by the proposed amendments to Rule 302. Any applicant or petitioner in a proceeding before the Hearing Board is subject to the proposed amendments of Rule 303. The proposed amendments have been developed to adjust fees by three percent (3%) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof, and to increase clarity for each of the affected groups.

d. Consistency:

The proposed amendment of Regulation III is in harmony with, and not in conflict with or contradictory to any state law or regulation, federal law or regulation, or court decisions because these laws and regulations allow for the proposed amendments to the fee rules.

e. Non-duplication:

The proposed amendment of Regulation III does not impose the same requirements as any existing state or federal law or regulation because H&S Code §40702 allows the District to adopt, amend or repeal rules and regulations, and H&S Code §42311 and various other sections merely authorize the imposition of such fees but do not specify the types and amounts of fees to be imposed.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend or repeal rules and regulations and the authority pursuant to H&S Code §42311 and various other sections to adopt a schedule of fees.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendment of Regulation III was published on or about 04/21/2016 for the 05/25/2016 and 06/27/2016 Governing Board meetings. The proposed amendments were reviewed by the Technical Advisory Committee (TAC), a committee consisting of a variety of regulated

industry and local governmental entities, on 06/14/ 2016. The TAC recommended approval to adopt the amendments to Regulation III. 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 United States Environmental Protection Agency (USEPA) are required to include various elements depending upon the type of document submitted and the underlying federal law that requires the submittal. Regulation III is a fee regulation and does not ordinarily require submission to USEPA. Various prior versions of Rule 301 were previously included in the State Implementation Plan (SIP) however USEPA removed this rule from the SIP on 01/18/02 (67 FR 2573; 40 CFR 52.220(c)(39)(iv)(C)). Rules 302 and 303 were also previously included in the SIP and removed by USEPA on 11/16/02 (69 FR 67062; 40 CFR 52.220(c)(127)(vii)(I)). Therefore, these rules are not required to be a federal submittal.

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. The proposed amendments to Regulation III only modify fees, and provide minor clarification. These proposed amendments do not in themselves impose air pollution control requirements. Therefore the preparation of a written analysis of existing pollution control requirements that apply to the same equipment or source type is not required.

C. ECONOMIC ANALYSIS

1. General.

Fees are a primary revenue source that supports the District’s efforts to implement and enforce the provisions of the Federal Clean Air Act (FCAA), the California Clean Air Act (CCAA) and District rules and regulations. Permit fee schedules reflect the expenditure required to provide analysis of applications, inspections of the regulated community, tracking the inventory of pollutants produced by the regulated industry, and enforcement of federal, state and local mandates regarding air pollution among other mandatory District functions.

2. Economic Analysis for Rule 301 – *Permit Fees*.

Staff is recommending adjustment to Rule 301 to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication

thereof. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

The proposed amendments to Rule 301 provide for an overall increase of three percent (3%) in the costs of most permit related fees. The proposed three percent (3%) permit fee adjustment is projected to result in an overall added cost to industry of \$128,086. This cost increase is based on FY 2016 application and operating permit fee revenues.

The Permit Fee Amount Increase table below presents the current permit fees of several typical facilities, and the amount that the fee will increase based on the staff recommendation.

Permit Fee Amount Increase		
Typical Facility	Current average permit fee	Recommended 3% increase
Spray Booth	\$ 292.82	\$ 8.78
Emergency Generator	\$ 292.82	\$ 8.78
Gas Station	\$ 1,131.69	\$ 33.95
Engine	\$ 1,964.12	\$ 58.92
Batch Plant	\$ 13,144.84	\$ 394.35
Title V Facility	\$ 22,121.72	\$ 663.65
Large Source	\$ 175,789.55	\$ 5,273.69

3. Economic Analysis for Rule 302 – *Other Fees.*

The proposed amendments to Rule 302 includes a three percent (3%) increase in fees to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. The hourly labor rate has been standardized to the hourly labor rate in Rule 301 for consistency. Hourly charges for some services are only imposed after a certain minimum amount of staff time has already been expended. For such fees the minimum amount of staff time has been set such that a majority of the persons subject to such fee will not be subject to an hourly charge. For the other fees containing hourly charges, these fees are rarely if ever, charged. Thus it is expected that the economic impact of such fees will be minimal.

4. Economic Analysis for Rule 303 – *Hearing Board Fees.*

Hearing Board Fees are only imposed upon those persons requiring the services of the Hearing Board specifically those challenging a permit issuance and those requesting a variance. The proposed adjustment to Rule 303 includes a three

percent (3%) increase designed to better reflect the actual labor costs involved in the variance process.

5. 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 requirements for Best Available Retrofit Control Technology (BARCT) or “all feasible measures” to control volatile compounds, oxides of nitrogen or oxides of sulfur. The proposed amendment to Regulation III – *Fees* affects fees and rule structure, and therefore does not require this analysis.

D. ENVIRONMENTAL ANALYSIS (CEQA)

1. Through the process described below the appropriate CEQA process for the proposed amendment of Regulation III were determined.

a. The proposed amendments to Regulation III meet the CEQA definition of “project”. They are not “ministerial” actions.

b. The proposed amendments to Regulation III are exempt from CEQA review. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts because the proposed amendments only adjusts fees, makes minor format corrections, and provides clarification. Therefore, 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 amendments to Regulation III do not have any potential environmental impacts because the amendments merely adjust fees, make minor format corrections, and provides clarification. The amendments do not have any impact upon emissions of air contaminants.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and Appendix “B”

## VI. TECHNICAL DISCUSSION

### A. SOURCE DESCRIPTION

The proposed amendments to Regulation III – *Fees* will affect any person subject to the particular fees. Permit holders and applicants will be subject to the proposed amendments of Rule 301 – *Permit Fees*. Persons subject to Rule 302 – *Other Fees* include those requiring an analysis of emissions or materials; persons submitting asbestos demolition/renovation notices; facilities which are asbestos disposal sites; certificate of occupancy applicants where the application requires more than one (1) hour of review; persons applying for issuance, transfer or encumbrance of Emission Reduction Credits; Facilities requiring review of Monitoring Devices; Persons needing the review and approval of certain types of plans; persons requesting specific publications and those subject to certain state mandated fees. Persons applying for a variance or challenging a permit issuance decision before the Hearing Board will be subject to the proposed amendments to Rule 303 – *Hearing Board Fees*.

### B. EMISSIONS

The proposed amendments to Regulation III adjust fees, makes minor format corrections, provides clarification, and thus does not have an impact on emissions.

### C. CONTROL REQUIREMENTS

The proposed amendments to Regulation III adjusts fees, makes minor format corrections, provides clarification, and thus does not impose any new or additional control requirements.

### D. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendment of Regulation III. Only a brief summary of each section is included. Readers are encouraged to examine the *[bracketed and italicized]* notations contained in the iterated version of the rule contained in Appendix “A” for notations regarding movement and modification of specific sections and subsections.

#### 1. MDAQMD Rule 301 – *Permit Fees*

Rule 301 – *Permit Fees*, includes a three percent (3%) increase in most fees to recover the rising costs associated with various permit activities required pursuant to the provisions of Regulation II – *Permits* and Regulation XIII – *New Source Review*.

Minor formatting and language changes have been incorporated for consistency and clarification within the rule, and are not individually identified when the meaning or intent is clear.

(A)(4)(a) – This subsection is amended to provide an effective date of 01/01/2017 to the most current proposed amendments.

(B)(4)(d) – Initial permit fees are not refundable for asbestos remediation equipment, including HEPA vacuums.

(C)(1)(a) – A fee adjustment of three percent (3%) and rounded to the nearest dollar is added to the application filing fee.

(C)(1)(d) – Asbestos remediation permitting requires that the application be accompanied by the filing fee and annual permit fee, due to a regular failure of payment of the annual permit fees.

(C)(2)(c)(i) – A fee adjustment of three percent (3%) is added to the labor rate.

(C)(6)(b)(i) – A fee adjustment of three percent (3%) and rounded to the nearest dollar is added to the change of ownership fee.

(C)(9)(b) – A fee adjustment of three percent (3%) and rounded to the nearest dollar is added to the signed duplicate or corrected permit fee.

(E) – A fee adjustment increases all fees in this section three percent (3%).

## 2. MDAQMD Rule 302 – *Other Fees*

Rule 302 – *Other Fees*, includes a three percent (3%) increase in most fees to recover the rising costs associated with various activities, documents and services, including but not limited to, provision of publications, performing analysis, filing, evaluation and enforcement of plans and state mandated fees. The hourly labor rate has been standardized to the hourly labor rate in Rule 301 for consistency.

Minor formatting and language changes have been incorporated for consistency and clarification within the rule, and are not individually identified when the meaning or intent is clear.

(B)(5) – This definition has been modified to include reports in addition to plans. Throughout the rule, reference to “plans” has been updated to include “report” as well.

(C)(3)(b) – Amended for clarification.

(D)(3)(a) – The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency.

(E)(5)(b) – The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency.

(H)(1)(a) – The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency.

(I)(3) – The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency.

(J)(1)(a) – Updated to include plans and reports that may be subject to this fee.

(J)(1)(b), (J)(2)(b), (J)(3)(b) and (J)(4)(c) – The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency.

### 3. MDAQMD Rule 303 – *Hearing Board Fees*

The amendment of Rule 303 includes a three percent (3%) increase in fees associated with various procedures brought before the Hearing Board.

Minor formatting and language changes have been incorporated for consistency and clarification within the rule, and are not individually identified when the meaning or intent is clear.

## E. RULE HISTORY

On 07/01/93 the Mojave Desert Air Quality Management District (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. The following rules are contained in Regulation III – *Fees*, and are proposed for amendment. A brief history of each rule proposed for amendment follows.

The version of Rule 301 – *Permit Fees* as amended on 01/01/90 was the rule in effect at this time. Rule 301 has been subsequently amended 10/23/94, 03/24/97, 09/28/98, 06/26/00, 09/23/02, 08/23/04, 06/27/05, 10/23/06, 06/25/07, 06/23/08, 06/28/10, 08/22/11, 06/25/12, 06/24/13, 06/23/14, and 06/22/15. The 06/22/15 version is the current version in the MDAQMD rulebook. In order to maintain the MDAQMD's sound financial standing, staff recommends the current proposed amendments to Rule 301 to adjust fees in the amount of three percent (3%). The District seeks to meet the need to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

Rule 302 – *Other Fees* was originally adopted on 11/20/89. On 06/22/15 Rule 302 was reorganized, and various other fees from Regulation III (Rules 304, 305, 306, 307, 308, 311 and 313) were consolidated into a single rule. The proposed amendment includes a three percent (3%) increase in most fees to recover the rising costs associated with

issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. The hourly labor rate has been standardized to the hourly labor rate in Rule 301 for consistency.

Rule 303 – *Hearing Board Fees* was adopted 11/20/89, and subsequently amended 06/22/15. Rule 303 is currently proposed to include a three percent (3%) increase in fees to recover the rising costs associated with various procedures brought before the Hearing Board.

## F. HISTORICAL FINANCIAL BACKGROUND

### 1. Financial Background for Rule 301 – *Permit Fees*

The MDAQMD was formed in 1993 by an act of the Legislature to assume the duties of the former San Bernardino County Air Pollution Control District. The MDAQMD also assumed all the property and assets of the former district. In addition, for the first 2 years the district utilized 100 percent of the available motor vehicle fee funding (AB2766 funds) and reserves to cover operations and formation expenses. On 10/23/94 the Governing Board amended Rule 301 to add a one-time 7.44 percent fee surcharge on permit fees to provide additional funding to cover district formation costs. This surcharge expired in October 1995.

In fiscal year 1995/1996 the Governing Board established an allocation program for the AB2766 funds such that 50 percent of the funding was utilized by the District, 25 percent was passed through to the cities and 25 percent was used to fund a competitive grant program for transportation and mobile source related projects. During that fiscal year staff began to focus on technology and automation improvements as one method to control costs. To this end an internal accounting system was implemented and the development of a permit billing system that was separate from the County of San Bernardino was commenced. Discretionary spending was also substantially curtailed. On 03/24/97 the Governing Board amended Rule 301 to remove the expired surcharge and to eliminate fees for late payments. Many air districts utilize such late fees as a deterrent and gain substantial revenue in the process. The MDAQMD is the only air district that does not charge this type of fee. Despite gains in efficiency due to automation and a decrease in spending, by the end of Fiscal Year 1996/1997 the MDAQMD's books were closed with a deficit of \$196,000, there were no reserves and revenue was declining.

The Governing Board adopted an austerity budget for fiscal year 1997/1998. In July of 1997 the MDAQMD obtained a contract for provision of services to the newly formed Antelope Valley Air Pollution Control District (AVAPCD). The services were provided to AVAPCD with a moderate surcharge on staff labor and a contract management fee. In June of 1998 the MDAQMD took the drastic step of reducing 6 positions for an approximate savings of \$210,000. In addition, the permit billing system was put on line further improving automation and resulting in additional cost savings.

In fiscal year 1998/1999 the economy was improving and as a result revenue was increasing. The AVAPCD contract continued to provide a reliable source of revenue and funded 7 full time equivalent positions. On 09/28/98 the Governing Board amended Rule 301 to provide a five percent (5%) across the board adjustment in fees. It also reorganized the fee rule to incorporate the existing surcharges on application and annual permit fees into the fee amounts themselves for ease of use. Austerity measures remained in force and the MDAQMD began to rebuild cash reserves.

On 06/26/00 the Governing Board amended Rule 301 to provide a 2.8 percent CPI adjustment. This action also revised the fee calculation procedure for gas stations to reflect a technological change to gasoline dispensing units. A fee was also added to cover the costs of processing landfill permits that were required by Federal Law. There was no immediate revenue impact of the landfill fee, however, because none of the active landfills within the District were required to install gas collection systems under the Federal regulation.

By fiscal year 2000/2001 the MDAQMD was again on sound financial footing. There was a \$500,000 reserve. Staffing levels were stabilized as well as automation; careful monitoring of expenditures and the continuation of the AVAPCD (now Antelope Valley Air Quality Management District (AVAQMD)) contract enabled the MDAQMD to regain its financial health while maintaining a high quality of service to its permit holders. To ensure the continuation of this financial health, on 09/23/02 the Governing Board amended 301 to provide a 2.4 percent CPI adjustment effective on 11/01/02. On 08/23/04 the Governing Board further amended 301 to provide a 2.75 percent CPI adjustment effective 01/01/05. On 06/27/05 the Governing Board amended Rule 301 to provide a 3.5 percent CPI adjustment with an effective date of 01/01/06. On 10/23/06 the Governing Board amended Rule 301 to provide a 4.0 percent CPI adjustment with an effective date of 01/01/07. On 06/25/07 and effective 01/01/08, the Governing Board adjusted the fees 3.5 percent to reflect the change in the CPI. On 06/23/08 and effective 01/01/09; the Governing Board adjusted fees 3.1 percent to reflect the change in CPI. On 06/28/10 and effective 01/01/11; the Governing Board again adjusted fees 2.0 percent (rounded to the nearest whole percent) to reflect changes in the CPI. On 08/22/11 and effective 01/01/12 the Governing Board approved an amendment adjusting fees by 2.3 percent to reflect changes in the CPI. At the 08/22/11 Governing Board meeting, staff was given direction to request a 1.7 percent increase in the 2012 fee rule amendment, and a 2.0 percent increase through 2016. The District amended Rule 301 on 06/25/12 to include the 1.7 percent fee increase. Effective 01/01/2014, the District adopted a 2.0 percent fee increase per the 06/24/13 Rule 301 amendment. On 06/23/14 and effective 01/01/15 the Governing Board approved an amendment adjusting fees by 3.25 percent, and re-incorporating pass through language for permitting activity costs. On 06/22/15 and effective 01/01/16 the Governing Board approved an amendment adjusting fees by three percent (3%).

Upon reviewing District operating costs, the Budget Committee is recommending that a three percent (3%) fee adjustment will be adequate to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

2. Financial Background for Rule 302 – *Other Fees*

Rules 302, 304, 305, 306, 307, 308, 309, 310, 311 and 313 were consolidated into a single rule, Rule 302 – *Other Fees*, on 06/22/15. These rules, in general, had not been adjusted since the 1990's. The costs associated with the programs tied to these rules had been subsidized by other District revenue.

Upon reviewing District operating costs, the Budget Committee is recommending a three percent (3%) increase to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

3. Financial Background for Rule 303 – *Hearing Board Fees*

The fees contained in Rule 303 had not been adjusted since 1989 and were originally based upon the anticipated costs of providing variance services at that time. It is unclear from the rule adoption record whether such services were in part subsidized by permit fee revenue. Over subsequent years other district revenue, primarily permit fee revenue, had been used to subsidize the costs for this program.

Upon reviewing District operating costs, the Budget Committee is recommending a three percent (3%) increase to recover the rising costs associated with various procedures brought before the Hearing Board. Regular adjustments to fees in response to rising costs, serves to minimize potentially dramatic future fee increases because incremental and periodic changes were not regularly implemented.

G. PROPOSITION 26 ANALYSIS

On November 2, 2010 the California voters added Article XIII C §1(e) to the California Constitution (commonly referred to as Proposition 26). This provision added a new definition of “tax” which resulted in a variety of fees and charges imposed by local governmental entities to be subject to voter approval. The provisions also provided several exceptions to this voter approval requirement including but not limited to:

A charge imposed for a specific benefit conferred or privilege granted directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

A charge imposed for a specific government service or product provided directly to the payer that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

If a fee increase falls within one or more of these exceptions it is considered not a tax and thus not subject to voter approval

1. Justification for Fee Adjustment to Rule 301 – *Permit Fees*

In general, air district permit fees would fall under this exemption so long as they are reasonably related to the costs of issuance and enforcement of the permits. A similar requirement that air district fees be reasonably related to costs of district programs is found in Health & Safety Code §42311(a) and includes language indicating that a CPI adjustment is part of a measure of the reasonable increase in district costs. In addition, the California League of Cities in its April 2011 implementation guide for Prop 26<sup>1</sup> opined that a CPI increase is part of the reasonable regulatory cost of issuing a license or permits and thus does not need voter approval.

The proposed three percent (3%) fee increase constitutes only a portion of the total projected cost increases for fiscal year 2016/2017. While the CPI for the Los Angeles/Riverside County between February 2015 and 2016 was 2.4 percent<sup>2</sup>, costs for the personnel involved in the issuance, investigation, inspection, audit and enforcement of permits and District rules and regulations are projected to increase 5.5 percent<sup>3</sup>. Therefore, the proposed fee adjustment is well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in Article XIII C §1(e)(3) of the California Constitution.

2. Justification for Fee Adjustment to Rule 302 – *Other Fees*

Adjustments to the fees in proposed Rule 302 would constitute either a charge for a specific benefit (Cal Constitution Article XIII C (1)(e)(1)) or a charge for a specific service not provided to those not charged (Cal Constitution Article XIII C

<sup>1</sup> <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Proposition-26-Implementation-Guide>

<sup>2</sup> <http://www.bls.gov/cpi/cpid1602.pdf>

<sup>3</sup> Includes both salary and benefit increases.

(1)(e)(2)). As such the fees charged for such activities should not exceed the reasonable cost of providing the benefit or service. Once again Health & Safety Code §§40727.2, 41240, 41512, 41512.5 41715, 42311 and 44380, among others, limits various fees to the costs of the underlying program.

In general, the consolidation of fee rules into proposed Rule 302 did not change the underlying fee amounts charged. Therefore, Proposition 26 provisions did not apply to the simple consolidation of Rules 304, 305, 306, 307, 308, 309, 310, 311, and 313 into Rule 302. Several of the consolidated rules did contain an hourly labor charge for certain services provided by District staff. These charges had not been changed in many cases since the early 1990's. The 06/22/15 amendment to Rule 302 adjusted the hourly rate to \$89.61. This was the same labor rate proposed in Rule 301. This rate was designed to reflect a portion of the reasonable staff cost for providing services on an hourly basis. In fact, this amount was highly discounted when compared with the hourly rates for similar services provided in the private sector.

The proposed three percent (3%) fee increase constitutes only a portion of the total projected cost increases for fiscal year 2016/2017. While the CPI for the Los Angeles/Riverside County between February 2015 and 2016 was 2.4 percent<sup>4</sup> costs for the personnel involved in the issuance, investigation, inspection, audit and enforcement of permits and District rules and regulations are projected to increase 5.5 percent<sup>5</sup>. Therefore, the proposed fee adjustment is well within the provisions of Health & Safety Code §42311(a) and falls within the exemption found in the California Constitution Article XIII C §1(e)(1), (2) or (3) as a reasonable cost of providing the associated benefit or service.

### 3. Justification for Fee Adjustment to Rule 303 – *Hearing Board Fees*

The District Hearing Board is a five (5) member quasi-judicial body formed pursuant to the provisions of H&S Code §§40800 et seq. The members are appointed by the Governing Board of the District for three (3) year terms (H&S Code §§40800, 40804) and consist of a lawyer, a professional engineer, a member of the medical profession and two public members. The Hearing Board performs the following functions:

Variances: A waiver of specific regulatory requirements for a limited period of time allowing a permitted facility to operate in violation of District Rules and Regulations under certain conditions while steps are taken to bring the facility into compliance.

Permit Appeals: A challenge to the Air Pollution Control Officer's (APCO) action regarding a particular permit. The APCO may suspend, deny issuance of or decline renew a permit for a variety of reasons. Such actions may be challenged as inappropriate before the Hearing Board. In

<sup>4</sup> <http://www.bls.gov/cpi/cpid1602.pdf>

<sup>5</sup> Includes both salary and benefit increases.

addition, third parties may request that a permit be revoked or may alleged that a permit has been improperly issued. Such allegations are also heard by the Hearing Board.

Abatement Orders: A quasi-judicial proceeding brought by the APCO that may ultimately result in an order requiring a source of air contaminants to take particular actions or cease operations.

Fees for variance actions would constitute either a charge for a specific benefit (Cal Constitution Article XIII C (1)(e)(1)) or a charge for a specific service not provided to those not charged (Cal Constitution Article XIII C (1)(e)(2)). As such the fees charged for variance activities should not exceed the reasonable cost of providing the benefit or service. A similar requirement that Hearing Board fees cover reasonable costs of the Hearing Board is found in Health & Safety Code §§42311(h) and 42364.

The proposed amended fees for variance actions includes a three percent (3%) increase to cover the rising costs associated with various procedures brought before the Hearing Board.

Fees for permit appeals are in effect charges for the administrative enforcement of permits. Once again they are required to reflect the reasonably regulatory cost of such enforcement (Cal. Constitution Article XIII C (1)(e)(3); Health & Safety Code §§42311(h) and 42364). Permit appeals require many of the same activities and time commitments as those used in the preparation and hearing for variances. Excess emissions fees would not be applicable to these types of Hearing Board actions.

Abatement actions do not require fees since they are brought directly by the APCO as an enforcement measure and would thus be funded in part by general permit fees pursuant to District Rule 301.

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**Appendix “A”**  
Regulation III - *Fees* 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 that 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.

Rule 301 – *Permit Fees*

Rule 302 – *Other Fees*

Rule 303 – *Hearing Board Fees*

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(Adopted: 07/09/76; Amended: 01/07/77; CARB Ex. Ord. G-73: 02/01/77; Readopted: 07/25/77; Amended: 08/22/85; Amended: 11/20/89; Amended: 01/01/90; Amended: 10/23/94; Amended: 03/24/97; Amended: 09/28/98; Amended: 06/26/00; Amended: 09/23/02; Amended: 08/23/04 effective 01/01/05; Amended: 06/27/05 effective 01/01/06; Amended: 10/23/06 effective 01/01/07; Amended: 6/25/07 effective 1/1/08; Amended: 06/23/2008 effective 01/01/2009; Amended: 06/28/10 effective 01/01/11; Amended: 08/22/11 effective 01/01/12; Amended: 06/25/12 effective 01/01/13; Amended: 06/24/13 effective 01/01/14; Amended: 06/23/14 effective 01/01/15; Amended: 06/22/15 effective 01/01/16; Amended: mm/dd/yy effective: mm/dd/yy)

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## RULE 301 Permit Fees<sup>1</sup>

<sup>1</sup> This amendment includes a [3 percent increase in most fees](#) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

### (A) General

- (1) Purpose
  - (a) This rule sets forth the fees required for various permit activities required pursuant to the provisions of Regulation II - *Permits* and Regulation XIII - *New Source Review*.
- (2) Applicability
  - (a) Any person subject to the provisions of Regulation II - *Permits* or Regulation XIII - *New Source Review* shall pay the fees set forth in this rule.
  - (b) Federal, ~~s~~State or local governmental agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with §6103); Part 4, Division 26 and Part 6, Division 26 of the Health and Safety Code (commencing with §44300).
- (3) Limitations
  - (a) Revenue derived from permit fees shall be limited as required by Chapter 4 of Part 4, Division 26 of the Health and Safety Code.
- (4) Effective Date

- (a) The amendments to this rule adopted on [mm/dd/yyyy06/22/2015](#) shall be effective on 01/01/2017.

(B) Requirements and Procedures

- (1) Fees, as specified herein, are required for the following activities relating to permits:
  - (a) The filing of a permit application.
  - (b) The evaluation of new or modified sources.
  - (c) The issuance of authority to construct(s).
  - (d) The issuance of permit(s) to operate.
  - (e) The issuance of duplicate or modified permits required by any of the following circumstances:
    - (i) Loss or destruction of a permit.
    - (ii) Change of equipment location to a site other than that described in the permit.
    - (iii) Transfer of ownership of the permit.
    - (iv) Alterations or additions to equipment as listed on the permit.
  - (f) Annual permit renewal.
- (2) Fees shall be paid when due as specified herein:
  - (a) Fees shall be invoiced at least thirty (30) days before the expiration date as shown on the permit. The owner/operator will be notified by First Class mail, ~~postage prepaid~~, of the amount to be paid and the due date of the invoice.
  - (b) If the fee is not paid on or before the due date of the invoice the permit shall become delinquent on the due date or expire on its expiration date, whichever is sooner, and will thereafter no longer be valid.
  - (c) Within thirty (30) days after the due date of the invoice or expiration date of the permit, whichever is sooner, if the applicable fees remain unpaid the holder of the permit shall be notified in writing by ~~First Class mail, postage prepaid~~.
    - (i) That the permit has become delinquent for non payment of fees and is no longer valid; and
    - (ii) Of the consequences of continuing to operate with an invalid permit.

- (d) If the permit is delinquent for more than six (6) months the permit shall be terminated and become inactive in District records.

(3) Reinstatement of Permits

- (a) A permit which is delinquent but has not become inactive may be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III – Fees and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).

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- (b) A permit which has become inactive may be reinstated by either of the following:

- (i) The submittal of a new application, accompanied by payment of all previously accrued fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III – Fees and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400) and the payment of any new fees which would apply to a similar new application; or

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- (ii) By submitting a written request to the APCO to reinstate the permit stating good cause for such reinstatement. The APCO or his or her designee shall review the request and may direct in writing that the permit be reinstated by payment in full of all outstanding fees, fines and penalties, including but not limited to other fees imposed pursuant to District Regulation III and fines or penalties imposed pursuant to the provisions of Article 3, Chapter 4, Part 4 of Division 26 of the Health and Safety Code (commencing with §42400).

(4) Refunds

- (a) No claim for refund for any fee required by this rule shall be honored unless:
  - (i) For initial permit fees, such claim is submitted within ninety (90) days after the permit was issued.
  - (ii) For renewal permit fees, such claim is submitted within ninety (90) days after the prior permit expiration date.
- (b) Refunds shall be pro-rated for the period between the date the request is received or prior permit expiration date, whichever is applicable, and the current permit expiration date.

(c) Fees established as surcharges are not refundable and are assessed in addition to the schedules established for permit fees. Surcharges are assessed and applicable as specified herein.

(d) The following fees are non-refundable: *[Asbestos remediation projects use both negative air machines and HEPA vacuums.]*

- (i) The filing fee set forth in section (C)(1).
- (ii) Initial permit fees for Negative Air Machines and HEPA vacuums pursuant to section (E)(7)(h).

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(5) Pro-rated fees

(a) The APCO may pro-rate any of the following fees excluding any applicable filing fee:

- (i) Initial Permit Fee;
- (ii) Annual Permit to Operate Renewal Fee;
- (iii) Permit to Construct Renewal Fee;
- (iv) Alteration, Modification, Addition or Revision Fees.

(b) Pro-rated fees shall be calculated based upon the fees and fee schedule in effect on the date of issuance of the permit to which the fees apply.

(c) Fees shall be pro-rated for the period between the date of the issuance of the affected permit and the expiration of the permit.

(6) Credit Card Payment

(a) If any person wishes to pay using a ~~Visa or MasterCard~~ credit card, that person shall also pay the processing costs imposed by the company processing the transaction. *[MDAQMD accepts additional credit card payments including American Express, Discover and debit cards.]*

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(C) Fees

(1) Filing Fee

(a) Except as otherwise provided, any person who applies for the issuance of a new or modified permit shall be assessed a fee of ~~\$269.00~~261.00. This filing fee shall be submitted with the application.

(b) The filing fee is non-refundable and shall not be applied to any subsequent application.

(c) Applications shall not be accepted unless they are accompanied by the filing fee.

(d) Applications for asbestos remediation equipment (including negative air machines and HEPA vacuums) shall not be accepted unless they are accompanied by the filing fee and annual permit fee as specified in section (E)(7)(h). [Asbestos remediation permitting makes this process necessary, due to a regular failure of payment of the annual permit fee.]

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(2) Project Evaluation Fee for Complex Sources

- (a) Any person who submits an application on or after January 1, 1986, which is related to projects to construct or modify any of the following shall be assessed a project evaluation fee for complex sources.
- (i) Equipment associated with landfills;
  - (ii) Equipment associated with resource recovery projects;
  - (iii) Equipment associated with energy cogeneration projects;
  - (iv) Equipment associated with electrical power plants;
  - (v) Equipment associated with hazardous and toxic material and/or waste disposal or treatment facilities; ~~and~~
  - (vi) Equipment subject to the provisions of District Rule 1303 Section (B);
  - (vii) Equipment with emissions of a Hazardous Air Pollutant requiring a Health Risk Assessment pursuant to District Rule 1320 subsection (E)(3) or a case-by-case MACT determination pursuant to District Rule 1320 subsection (F)(2); ~~and~~
  - (viii) Equipment subject to provisions of the Prevention of Significant Deterioration Program as administered by U.S. Environmental Protection Agency or District Rule 1600; ~~and~~
  - (ix) Any other permit units where the APCO or his or her designee has determined that an analysis required pursuant to these ~~r~~Rules or ~~r~~Regulations would require over twenty-four (24) hours of staff time to complete.
- (b) A deposit of \$6,500.00 to be applied toward the project evaluation fee for complex sources shall be paid within thirty (30) days of written notification by the District that the application is subject to this fee.
- (c) The project evaluation fee for complex sources shall be based on the District's total actual and reasonable labor time and other reasonable expenses for the evaluation required to develop a permit to construct and/or permit to operate.
- (i) This fee shall be calculated at a labor rate of ~~\$93.00~~89.61 per hour plus actual expenses.
  - (ii) The fee shall accrue and be applied against the deposit.
  - (iii) Should the District's costs as calculated pursuant to subsection (i) above not exceed the deposit, the remainder of the deposit will be returned to the applicant.

- (iv) Should the District's costs as calculated pursuant to subsection (i) above exceed the deposit the excess will be billed to the applicant.
    - a. The applicant shall be notified, in writing, of the amount of any such excess fee and the due date for payment of the fee.
    - b. An accounting of costs and written notice to the applicant shall be issued to the applicant at least quarterly.
  - (d) Actual expenses of the District include consultant services which are engaged by the District for the purpose of project evaluations. When project evaluations are performed for the District under such a contract, the applicant will be assessed fees for the actual total and reasonable costs incurred by the District staff to oversee, review and approve the evaluation as well as the actual cost to the District of the contractor evaluation.
  - (e) Actual expenses of the District include project notice fees which are incurred on behalf of public project notices.
  - (f) The provisions of [subSection \(B\)\(2\)](#) do not apply to this fee. If the applicant fails to pay the project evaluation fee for complex sources when due the APCO shall, after written notice to the applicant, cancel the application.
- (3) Initial Permit Fee
- (a) Except as otherwise provided in this [r](#)ule, any person who applies for a permit shall, upon notification that the application has been approved, be assessed the initial permit fee for the issuance of a permit to construct or permit to operate in the amount prescribed in schedules set forth herein.
    - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate initial permit fee. Such alternate initial permit fee shall not be less than the highest initial permit fee for any single alternative scenario set forth in the application and shall not be more than the sum of the initial permit fees for all alternative scenarios set forth in the application.
    - (ii) For applications where multiple schedules may be applicable to a particular piece of equipment the APCO shall determine the appropriate schedule to be applied.
  - (b) After the provisions for granting permits as set forth in Division 26 of the Health and Safety Code and these Rules and Regulations have been complied with, the applicant shall be notified, in writing, of the amount of the fee to be paid as the initial permit fee.
    - (i) Notice may be given by personal service, [electronically](#), or by [First Class](#) mail, ~~postage prepaid~~.

(4) Annual Permit to Operate Renewal Fee

- (a) A Permit to operate shall be annually renewable, upon payment of fees.
- (b) The annual permit to operate renewal fee shall be calculated pursuant to the schedules herein.
- (c) The annual permit to operate renewal fee shall be invoiced as specified in Section (B) above.

(5) Authority to Construct Renewal Fee

- (a) An authority to construct may be renewed, upon payment of fees, pursuant to the provisions of District Rule 201.
- (b) The authority to construct renewal fee shall be calculated pursuant to the schedules herein.
  - (i) For applications containing mutually exclusive alternative construction scenarios the APCO may, upon written request of the applicant, assess an alternate authority to construct renewal fee. Such alternate authority to construct renewal fee shall not be less than the highest authority to construct renewal fee for any single alternative scenario set forth in the application and shall not be more than the sum of the authority to construct renewal fees for all alternative scenarios set forth in the application.
  - (ii) For applications where multiple schedules may be applicable to a particular piece of equipment the APCO shall determine the appropriate schedule to be applied.
- (c) An authority to construct may only be renewed for two (2) years after the initial date of issuance, unless the application is canceled or an extension of time pursuant to the provisions of District Rule 205 has been granted by the APCO.
- (d) The authority to construct renewal fee shall be invoiced as specified in Section (B) above.
- (e) When construction is completed prior to the expiration of the authority to construct, the authority to construct may thereupon act as a temporary permit to operate pursuant to the provisions of District Rule 202. The residual fee for the authority to construct, calculated as a pro-rated fee for the period between the completion of construction and the expiration date of the permit, shall be applied to a pro-rated initial permit fee for the same period. Any positive difference between the residual fee and the pro-rated initial permit fee shall be invoiced as set forth in Section (B) above.

(6) Change of Location or Ownership Fees

- (a) Permits, pursuant to the provisions of District Rule 209, are only valid for the location specified in the permit.
  - (i) Any person who applies for a permit requesting a change in the location of equipment included on a currently valid permit shall request in writing a change of location for the equipment and may be assessed an initial permit fee if the change in location also creates additional alteration(s), modification(s), addition(s) or revision(s) in either the subject permit or other permits at the same facility.
  - (ii) The person will be notified by mail, ~~postage prepaid~~, of the amount of the initial permit fee due as a result of the change of location and the due date for payment of the fee.
  - (iii) The APCO or his or her designee may, upon the applicant's written request, waive the initial permit fee.
- (b) Permits, pursuant to the provisions of District Rule 209, are only valid to the person named on the permit.
  - (i) Any person who applies for a permit requesting a change of ownership of equipment included on a currently valid permit shall be assessed a transfer fee of \$~~153.00~~~~49.00~~ for each permit being transferred from one person to another.
  - (ii) The filing fee set forth in subSection (C)(1) are waived for applications solely requesting a change of ownership.
  - (iii) The transfer fee for applications solely requesting a change of ownership is due at the time the application is filed.
- (c) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alteration(s), addition(s) or revision(s) to the permit shall be assessed either the fees set forth in this Section or in subSection (C)(7) whichever is greater.

(7) Alteration, Modification, Addition or Revision Fees

- (a) Any person who applies for a permit requesting alteration(s), modification(s), addition(s), or revision(s) of the permit resulting from a change to equipment included on a currently valid permit shall be assessed a filing fee pursuant to subsection (C)(1) above and a permit revision fee.
- (b) The permit revision fee shall be calculated as follows:
  - (i) The initial permit fee for a permit which includes the alteration, addition or revision minus the previous year's annual permit to operate renewal fee, pro-rated, for the period between the date of issuance for the permit containing the alteration addition or revisions, and the original permit(s) expiration date.

- (c) The permit revision fee shall be invoiced as set forth in Section (B) above.
  - (d) Any person submitting an application for a permit requesting a change of location and/or change of ownership which also requests alteration(s), addition(s) or revision(s) to the permit shall be assessed either the fees set forth in this Section or in subSection (C)(6), whichever is greater.
- (8) Fees Applicable when Permit Granted or Denied by Hearing Board
- (a) If a permit is granted by the Hearing Board after denial of an application by the APCO or after the application has been deemed denied pursuant to District Rule 215, the applicant shall be assessed the appropriate fees set forth in this Rule.
  - (b) The applicant shall be notified, in writing, of the amount of the fee and the due date for payment of the fee.
  - (c) Previously paid fees are not refundable if the Hearing Board denies the issuance of a permit which was granted by the APCO.
- (9) Signed Duplicate or Corrected Permit Fees
- (a) A request for a signed duplicate permit or for administrative corrections to a permit, shall be made in writing by the permit holder.
  - (b) The permit holder shall be assessed a fee of ~~\$73.00~~71.00 for issuing each signed duplicate or corrected permit.
  - (c) The fee for a signed duplicate or corrected permit is due at the time the permit is requested.
- (10) Previously Unpermitted or Altered Equipment Fee-
- (a) When equipment is built, erected, installed, altered, or replaced (except for identical replacement) without the owner or operator obtaining a permit to construct in accordance with District Rule 201, the owner or operator shall be assessed a previously unpermitted equipment fee.
  - (b) The previously unpermitted equipment fee shall be calculated as fifty percent (50%) of all applicable permit fees which would have been required for each year of unpermitted activity, plus the full amount of all applicable permit fees for the year immediately preceding the year when the permit to operate is granted.
  - (c) The unpermitted equipment fee is due when the permit to operate is granted.
  - (d) The assessment of an unpermitted equipment fee shall not limit the District's right to pursue any other remedy provided for by law.

- (e) The provisions of this subsection shall not apply if a permit is required solely due to a change in District Rule 219.
- (f) The APCO may waive the unpermitted equipment fee for good cause upon the written application of the person assessed the fee.

(11) CEQA Review Fees

- (a) An application for a permit which is associated with a project subject to review under the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.) shall pay, in addition to any other fees applicable pursuant to this ~~r~~Rule, the District's cost of performing all environmental evaluation required pursuant to CEQA. Such costs shall include, but are not limited to:
  - (i) Cost of preparing any environmental study or Environmental Impact Report including the costs of any outside consulting assistance which the District may employ in connection with the preparation of such study or report;
  - (ii) Cost of publication and circulation of any required notice;
  - (iii) Cost of filing any required documents with another agency; and
  - (iv) Reasonable internal costs, including overhead, of processing and reviewing the required environmental documentation.

(D) (Reserved)

(E) Schedules for Initial Permit Fee and Annual Permit Fee

(1) Schedule 1, Motor Horsepower:

Any emission generating process using motors as a power source shall be assessed a permit fee based on the cumulative total rated horsepower of all equipment in the process train, with the exception of air pollution control or other equipment that may operate independently of the process, in accordance with the following schedule:

<u>HORSEPOWER RATING (hp)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 40 hp	<del>\$338.72</del> <del>328.85</del>
(b) 41 to and including 200 hp	<del>\$116.02</del> <del>112.64</del> plus <del>\$5.575</del> <del>41</del> per each hp
(c) 201 to and including 1,000 hp	<del>\$700.65</del> <del>680.24</del> plus <del>\$26.45</del> <del>25.68</del> per each 10 hp
(d) Greater than 1,000 hp	<del>\$2,023.04</del> <del>1,964.12</del> plus <del>\$13.23</del> <del>12.84</del> per each 10 hp

(2) Schedule 2, Fuel Burning Equipment:

Any emission generating process in which fuel is burned, for the production of useful power, except for engine driven generators used for the intermittent production of electrical power not for resale, shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, (~~Btuh~~), using gross heating values of the fuel plus 2,550 ~~Btuh~~ for each horsepower of associated motor driven equipment, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS (BTU)</u> <u>PER HOUR (<del>Btuh</del>)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 <del>Btuh</del>	<del>\$116.02</del> <del>112.64</del> plus <del>\$163.97</del> <del>159.19</del> per each 100,000 <del>Btuh</del>
(b) 250,001 to and including 1,000,000 <del>Btuh</del>	<del>\$293.88</del> <del>285.32</del> plus <del>\$92.79</del> <del>90.09</del> per each 100,000 <del>Btuh</del>
(c) 1,000,001 to and including 4,000,000 <del>Btuh</del>	<del>\$873.86</del> <del>848.41</del> plus <del>\$34.79</del> <del>33.78</del> per each 100,000 <del>Btuh</del>
(d) 4,000,001 to and including 10,000,000 <del>Btuh</del>	<del>\$1,152.27</del> <del>1,118.71</del> plus <del>\$27.86</del> <del>27.05</del> per each 100,000 <del>Btuh</del>
(e) 10,000,001 to and including 100,000,000 <del>Btuh</del>	<del>\$3,178.42</del> <del>3,085.84</del> plus <del>\$75.79</del> <del>73.58</del> per each 1,000,000 <del>Btuh</del>
(f) Greater than 100,000,000 <del>Btuh</del>	<del>\$8,823.76</del> <del>8,566.76</del> plus <del>\$19.34</del> <del>18.78</del> per each 1,000,000 <del>Btuh</del>

(3) Schedule 3, Electrical Energy:

Any emission generating process which uses electrical energy, with the exception of motors covered in Schedule 1, shall be assessed a permit fee based on the total kilo-volt-ampere (kVA) ratings, in accordance with the following schedule:

<u>KILOVOLT-AMPERE (kVA)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 45 kVA	<del>\$310.86</del> <del>301.81</del>
(b) Greater than 45 kVA	<del>\$296.96</del> <del>288.31</del> plus <del>\$0.33</del> <del>0.32</del> per each kVA

(4) Schedule 4, Incinerator Equipment:

Any equipment designed and used primarily to dispose of combustible refuse by wholly consuming the material charged leaving only the ashes or residue shall be assessed an initial and annual permit fee based on the maximum horizontal, inside, cross sectional area, in square feet, of the primary combustion chamber. The fee shall be ~~\$310.86~~~~301.81~~ plus ~~\$20.12~~~~19.53~~ per square foot.

(5) Schedule 5, Stationary Containers:

Any stationary tank, reservoir, or other container with the exception of stationary storage tanks covered in Schedule 6 ([subsection \(E\)\(6\)](#)) herein, shall be assessed a permit fee on the following schedule of capacities in gallons or cubic equivalent:

<u>GALLONS</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 10,000 gallons	\$ <del>296.96</del> <del>288.34</del>
(b) 10,001 to and including 100,000 gallons	\$ <del>258.28</del> <del>250.76</del> plus \$ <del>3.88</del> <del>3.77</del> per each 1,000 gallons
(c) 100,001 to and including 2,000,000 gallons	\$ <del>569.18</del> <del>552.60</del> plus \$ <del>7.57</del> <del>7.35</del> per each 10,000 gallons
(d) Greater than 2,000,001 gallons	\$ <del>1,701.35</del> <del>1,651.80</del> plus \$ <del>19.17</del> <del>18.61</del> per each 100,000 gallons

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(6) Schedule 6, Retail Gasoline Dispensing Equipment:

Any fueling equipment used to dispense gasoline (as defined in District Rule 461 [subsection \(B\)\(2\)](#)) at a single retail location, including but not limited to, stationary gasoline storage tanks, dispensers, and vapor recovery systems where required, shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) \$~~48.56~~~~47.15~~ per single product nozzle.
- (b) \$~~48.56~~~~47.15~~ per product for each multi-product nozzle.

(7) Schedule 7, Miscellaneous Permit Fees:

Permits to operate the following equipment shall be assessed an initial and annual permit fee in accordance with the following schedule:

- (a) Each permit of a dry cleaning plant: \$~~301.60~~~~292.82~~.
- (b) Test Stand, Intermittent: \$~~301.60~~~~292.82~~.
- (c) Spray coating equipment operated outside of a control enclosure: \$~~301.60~~~~292.82~~.
- (d) Vapor degreasing equipment using non- Volatile Organic Compound (VOC) material only: \$~~301.60~~~~292.82~~.
- (e) Portable abrasive blasting equipment: \$~~301.60~~~~292.82~~.
- (f) Mobile asphalt or coal tar pitch roofing equipment with a capacity greater than 500 gallons: \$~~301.60~~~~292.82~~.
- (g) Internal combustion engines of greater than or equal to fifty (50) brake horsepower driving electrical generators which meet any of the following criteria:

- (i) Used at facilities normally serviced with commercial power, where the generators are used exclusively as emergency units during loss of commercial power: ~~\$301.60292.82.~~
  - (ii) Used at facilities normally serviced with an alternative energy supply including, but not limited to, photovoltaic power, where the generators are used exclusively as emergency units during loss of such alternative energy source but no more than 200 hours total per year: ~~\$301.60292.82.~~
  - (iii) Used to drive a fire pump or deluge pump that is used exclusively during fire emergency or testing: ~~\$301.60292.82.~~
- (h) Air Pollution Control Devices: ~~\$270.67262.79~~
- (i) Air ~~P~~ollution ~~C~~ontrol ~~D~~evices for the purpose of this subsection are those devices which are not a part of the basic process train. For the purposes of this subsection such devices do not include product separators.
  - (ii) Collection systems and conveyors associated with Air Pollution Control ~~D~~evices as defined in this subsection shall not be considered as part of the air pollution control device.
- (i) Any piece of equipment which has the potential to emit pollutants, but not included elsewhere in these schedules: ~~\$301.60292.82.~~

(8) Schedule 8, Direct-Fired Production Equipment:

Any emission generating process in which fuel is burned in combination with other materials for the purpose of producing a salable product, shall be assessed a permit fee based on the total equivalent fuel consumption of the equipment expressed in British thermal units (~~Btu~~) per hour, (~~Btuh~~), using gross heating values of the fuel plus 2,550 ~~Btuh~~ for each horsepower of associated motor driven equipment, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS (BTU) PER HOUR</u> <u>(<del>Btuh</del>)</u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 <del>Btuh</del>	<del>\$116.02112.64</del> plus <del>\$163.97459.19</del> per each 100,000 <del>Btuh</del>
(b) 250,001 to and including 1,000,000 <del>Btuh</del>	<del>\$293.88285.32</del> plus <del>\$92.7990.09</del> per each 100,000 <del>Btuh</del>
(c) 1,000,001 to and including 4,000,000 <del>Btuh</del>	<del>\$873.86848.41</del> plus <del>\$34.7933.78</del> per each 100,000 <del>Btuh</del>
(d) 4,000,001 to and including 10,000,000 <del>Btuh</del>	<del>\$1,152.274,148.71</del> plus <del>\$27.8627.05</del> per each 100,000 <del>Btuh</del>
(e) 10,000,001 to and including 100,000,000 <del>Btuh</del>	<del>\$3,178.423,085.84</del> plus <del>\$75.7973.58</del> per each 1,000,000 <del>Btuh</del>
(f) Greater than 100,000,000 <del>Btuh</del>	<del>\$8,823.768,566.76</del> plus <del>\$19.3418.78</del> per each 1,000,000 <del>Btuh</del>

(9) Schedule 9, Engine Driven Electric Generators:

Generators used for the intermittent generation of electricity, other than for resale, where such generators provide power at the facility to assure continued operational capability should there be a loss of commercial power and/or to obtain a favorable commercial rate schedule shall be assessed a permit fee based upon the design fuel consumption of the equipment expressed in British thermal units (Btu) per hour, ~~(Btu/h)~~, using gross heating values of the fuel, in accordance with the following schedule:

<u>BRITISH THERMAL UNITS (BTU) PER HOUR</u> <u><del>(Btu/h)</del></u>	<u>INITIAL AND ANNUAL PERMIT FEE</u>
(a) Up to and including 250,000 Btu <del>h</del>	\$ <del>116.02</del> <del>112.64</del> plus \$ <del>163.97</del> <del>159.19</del> per each 100,000 Btu <del>h</del>
(b) 250,001 to and including 1,000,000 Btu <del>h</del>	\$ <del>293.88</del> <del>285.32</del> plus \$ <del>92.79</del> <del>90.09</del> per each 100,000 Btu <del>h</del>
(c) 1,000,001 to and including 4,000,000 Btu <del>h</del>	\$ <del>873.86</del> <del>848.41</del> plus \$ <del>34.79</del> <del>33.78</del> per each 100,000 Btu <del>h</del>
(d) 4,000,001 to and including 10,000,000 Btu <del>h</del>	\$ <del>1,152.27</del> <del>1,118.71</del> plus \$ <del>27.86</del> <del>27.05</del> per each 100,000 Btu <del>h</del>
(e) 10,000,001 to and including 100,000,000 Btu <del>h</del>	\$ <del>3,178.42</del> <del>3,085.84</del> plus \$ <del>75.79</del> <del>73.58</del> per each 1,000,000 Btu <del>h</del>
(f) Greater than 100,000,000 Btu <del>h</del>	\$ <del>8,823.76</del> <del>8,566.76</del> plus \$ <del>19.34</del> <del>18.78</del> per each 1,000,000 Btu <del>h</del>

(10) Schedule 10, Stand-By Equipment:

Equipment used exclusively to provide continued operation of a process during maintenance or repair of an existing piece of regularly permitted equipment, shall be assessed an initial and annual permit fee of fifty percent (50%) of the appropriate fee schedule for that type of equipment or \$~~270.67~~~~262.79~~, whichever is the greater.

(11) Schedule 11, Landfills

Any landfill required to install a gas collection system pursuant to the provisions of 40 CFR 60 Subpart Cc (commencing with 40 CFR 60.30Cc) or 40 CFR 60 Subpart WWW (commencing with 40 CFR 60.750), shall be assessed an initial and annual permit fee of \$~~1,490.23~~~~1,446.83~~ per gas collection facility~~facility~~.

[SIP: Not in SIP.]

(Adopted: 11/20/89; Effective Date: 01/01/90; Amended: 06/22/15; Amended: mm/dd/yy)

## Rule 302 Other Fees<sup>1</sup>

### (A) General

- (1) Purpose:
  - (a) This rule sets forth fees which may be charged for various activities, documents and services, including but not limited to, provision of publications, performing analysis, filing, evaluation and enforcement of plans and State Mandated Fees.
- (2) Applicability
  - (a) This rule applies to
    - (i) Any person subject to a fee listed [hereinbelow](#).
    - (ii) Any [of the following](#) governmental entities subject to a fee listed [hereinbelow](#).
      - a. Federal, state and local government agencies or public districts shall pay the fees to the extent allowed pursuant to the provisions of Chapter 2, Division 7, Title 1 of the Government Code (commencing with Section 6103); Part 4, Division 26 of the Health and Safety (H&S) Code (commencing with Section 41500) and Part 6, Division 26 of the H&S Code (commencing with Section 44300).

### (B) Definitions

The definitions contained in District Rule 102 shall apply unless the term is otherwise defined herein:

- (1) “Demolition Project” – The wrecking or taking out of any load-supporting structural member of a Structure subject to 40 CFR 61, Subpart M together with any related handling operations, or the intentional burning of such Structure.
- (2) “Emissions Unit” – Any article, machine, equipment, other contrivance or combination thereof which emits or has the potential to emit air contaminants.
- (3) “Facility” – Any building, structure, emissions unit, combination of emissions units, which emits or may cause the issuance of air contaminants and which is:

<sup>1</sup> This amendment includes a [3.00% increase in most fees](#) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof. The hourly labor rate has been standardized to the hourly labor rate in Rule 301 for consistency.

- (a) Located within the District on one (1) or more contiguous or adjacent properties; and
  - (b) Under the control of the same person (or by persons under common control); and
  - (c) Belong to the same industrial grouping as determined by being within the same two digit Sstandard Industrial Classification Code (SIC) or equivalent classification system.
  - (d) For the purpose of this definition a grouping meeting the requirements above but connected only by land carrying a pipeline shall not be considered a single Facility.
- (4) “Installation” – Any building or structure or any group of buildings or structures at a single Demolition Project or Renovation Project site that are under control of the same owner or operator (or owner or operator under common control).
- (5) “Plan or Report” – A document required to be submitted to the District by District ~~r~~Rule or ~~r~~Regulation; or ~~s~~State or ~~f~~Federal law or regulation, providing a description of actions or procedures necessary to accomplish the particular objective and containing those items set forth in the underlying requirement. *["Report" added here and after, to be more comprehensive and clear.]*
- (6) “Source Test Protocol” – A test work plan or protocol includes a process description, field sampling methods, analytical test methods, test schedules, equipment calibration and a results presentation format used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.
- (7) “Source Test Report” – A document that provides the analytical results from an emission source test used to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream. The report should contain an executive summary, field sampling methods, analytical test methods, equipment calibration and a results presentation to determine the type and quantity of pollutants emitted from sources by sampling the effluent stream.
- (8) “Structure subject to 40 CFR 61, Subpart M” – Any institutional, commercial, public, industrial, or residential structure, Installation, or building (including any structure, Installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four (4) or fewer dwelling units); any ship; and any active or inactive waste disposal site. For the purposes of this definition, any building, structure, or Installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, Installation or building that was previously subject to 40 CFR 61, Subpart M is not excluded, regardless of its current use or function.
- (9) “Renovation Project” – Altering a Structure subject to 40 CFR 61, Subpart M or one or more Structure(s) subject to 40 CFR 61, Subpart M components in any way, including the removal of asbestos-containing material from a Structure

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subject to 40 CFR 61, Subpart M component. Operations in which load-supporting structural members are wrecked or taken out are Demolition Projects.

(C) Payments, Adjustments and Refunds

(1) Fees shall be paid when due as specified herein.

(a) Analysis Fees and Monitoring Device Fees

- (i) Analysis and Monitoring Device fees shall be invoiced as follows:
  - a. Directly by the entity retained by the District to perform the test and or analysis; ~~or~~
  - b. By the District within thirty (30) days of receipt of an invoice by the District for testing and/or analysis services; ~~or~~
  - c. By the District within thirty (30) days of completion of the analysis of testing methodology and review of test results.
- (ii) If invoiced by the District, the person ordered to provide the analysis or test by the Air Pollution Control Officer (APCO) will be notified by First Class mail, ~~postage prepaid~~, of the amount to pay and the due date of the invoice.
- (iii) If the fee is not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this ~~r~~Rule for any source, whether or not subject to permit requirements.

(b) Asbestos Demolition/Renovation Fees

- (i) Asbestos Demolition/Renovation Fees shall be paid at the time of the submittal of the Demolition or Renovation notification.
- (ii) Permit fees for Air Pollution Ceontrol Devices shall be paid pursuant to the provisions of District Rule 301.
- (iii) If subsequent charges for Asbestos Demolition/Renovation Fees apply the District shall be invoiced within ten (10) days of the change resulting in the subsequent charges as follows:
  - a. The invoice shall be sent via First Class mail, ~~postage pre-paid~~ to the person submitting the notification at the address listed therein.
  - b. Payment of the fees shall be due thirty (30) days from the date of mailing.
  - c. If the fee is not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this ~~r~~Rule for any source, whether or not subject to permit requirements.

- (c) Asbestos Waste Disposal Site Fees
- (i) Asbestos Waste Disposal Site Fees shall be invoiced and paid at the same time and in the same manner as permit fees set forth in [District Rule 301](#).
- (d) Certificate of Occupancy Fee
- (i) Certificate of Occupancy Fee, if applicable, shall be paid prior to delivery of the official documentation showing the District's approval of the Certificate of Occupancy.
- (e) Emission Reduction Credit (ERC) Fees
- (i) The initial fee for the issuance, encumbrance, transfer or reclassification of ERCs shall be paid upon submission of the application for issuance, encumbrance, transfer or reclassification.
  - (ii) Analysis fees, if applicable, for the issuance of ERCs shall be invoiced within ten (10) days of the completion of the analysis as follows:
    - a. The invoice shall be sent via First Class mail, ~~postage pre-paid~~ to the applicant.
    - b. Payment of the fees shall be due thirty (30) days from the date of mailing.
    - c. If the fee is not paid within thirty (30) days of the due date of the invoice shall refrain from issuing the ERCs.
- (f) Plan ~~and Report~~ Fees
- (i) Plan ~~and Report~~ filing and evaluation fees shall be paid at the time of submission of the ~~P~~plan ~~or Report~~.
  - (ii) If a Plan ~~or Report~~ analysis exceeds ten (10) hours of District staff time then the District shall invoice the ~~Plan Analysis Fee~~ within ten (10) days of completion of the analysis but prior to the issuance of the approval of the ~~P~~plan ~~or Report~~.
    - a. The invoice shall be sent via First Class mail, ~~postage prepaid~~ to the contact person indicated in the ~~P~~plan ~~or Report~~.
    - b. Payment of Plan ~~or Report~~ a~~n~~alysis Fee shall be due in thirty (30) days from the date of mailing.
    - c. If the fee is not paid within thirty (30) days of the due date of the invoice then the District shall refrain from approving the ~~P~~plan ~~or Report~~.
  - (iii) If a Plan ~~or Report~~ requires an annual renewal the District shall invoice the ~~plan~~ renewal fee at least thirty (30) days prior to the expiration date ~~of the Plan~~.
    - a. The invoice shall be sent via First Class mail, ~~postage prepaid~~ to the contact person indicated in the ~~P~~plan ~~or Report~~.

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- b. Payment of annual review fee shall be due in thirty (30) days from the date of mailing.
  - c. ~~Fees~~If the fee is not paid within thirty (30) days of the due date of the invoice shall constitute grounds for the denial, revocation or suspension of all permits to operate at sources subject to permit requirements and shall constitute a violation of this ~~R~~ule for any source, whether or not subject to permit requirements.
- (g) Publication Fees
  - (i) Publication fees shall be paid prior to the delivery of the publication requested.
- (h) State Mandated Fees
  - (i) State ~~M~~mandated ~~F~~ees shall be due and paid as specified in the regulation which imposes the mandate and allows the District to collect the state imposed fees for such mandate.
- (2) Credit Card Payments
  - (a) Fees may be paid by credit card directly from the District website.
  - (b) If any person wishes to pay using a credit card, the person shall also pay any costs imposed by the company processing the credit card transaction.
- (3) Refunds
  - (a) Fees set forth in this rule are non-refundable unless otherwise listed below.
  - (b) Asbestos Fee Refunds
    - (i) Applicants who have paid Asbestos Fees ~~and submitted upon filing a notification for a project and that is~~ subsequently ~~not accomplished, the Demolition Project or Renovation Project is not accomplished~~ may request a refund of the fee.
    - (ii) The amount of the refund shall be calculated as the fee paid minus any amount expended by the District in labor to review, analyze, inspect or otherwise deal with the notification at the ~~hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.64 per hour~~ or the fee paid minus ~~\$89.64~~one (1) hour at the specified ~~labor rate~~ whichever amount is less.
  - (c) ERC Fee Refunds
    - (i) If an application for the issuance of ERCs is withdrawn by the applicant within sixty (60) days of the date of the submittal of the application, the applicant shall be entitled to a refund of sixty percent (60%) of the application fee.

(4) Service Charge for Returned Checks

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- (a) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.

(D) Analysis Fees

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- (1) Any person ordered by the APCO to provide an analysis of materials used by, or the determination of emissions from, any source of air contaminants shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the District or retained by the owner/operator to perform the tests.
- (2) Any owner or operator of a facility from whom the District collects a sample shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the District to perform the tests.
- (3) Any person subject to the provisions of subsection (D)(1) or (2) above shall also be assessed a fee for the reasonable time required by District staff to review the testing methodology and results.

- (a) Such fee shall be calculated at ~~a the hourly~~ labor rate ~~of specified in District Rule 301 subsection (C)(2)(c)(i) \$89.61 per hour~~ plus actual expenses. *[The hourly labor rate has been removed and referenced back to the hourly labor rate maintained in Rule 301 for consistency. This change has been made throughout the rule when an hourly labor rate is specified.]*

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- (4) Data and sample collection methods, analysis methods and the qualifications of testing personnel or firms shall be determined by the APCO.

(E) Asbestos Demolition/Renovation Fees

- (1) Any person who is required by the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos as set forth in 40 Code of Federal Regulations, Part 61 (40 CFR 61), Subpart M, (and as adopted by reference in District Rule 1000 subsection (C)(2)(m)) to submit a written notice of intention to demolish, including but not limited to Demolitions Projects where no asbestos is present, and/or Demolition Projects by fire, shall pay a fee of ~~\$129.00~~\$25.00.
- (a) This fee may be waived by the APCO in those cases where a single notification is submitted for a Renovation and subsequent Demolition on the same building, provided that the notification meets all the requirements of 40 CFR 61, Subpart M for both projects.
- (2) Any person who is required by the provisions of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos as set forth in 40

Code of Federal Regulations, Part 61 (40 CFR 61), Subpart M, (and as adopted by reference in District Rule 1000 [subsection \(C\)\(2\)\(m\)](#)) to submit a written notice of intention to renovate or abate shall pay a fee calculated as follows:

- (a) For Renovation projects involving the removal or stripping of more than 260 linear feet of pipe but less than 1,600 linear feet of pipe; or more than 160 square feet of material but less than 1,000 square feet of material, a fee of \$~~283.00~~~~275.00~~, except as noted in [subsection \(E\)\(3\)](#).
- (b) For Renovation projects involving the removal or stripping of 1,600 linear feet or more of pipe but less than 8,000 linear feet of pipe; or 1,000 square feet or more of material but less than 5,000 square feet of material, a fee of \$~~489.00~~~~475.00~~, except as noted in [subsection \(E\)\(3\)](#).
- (c) For Renovation projects involving the removal or stripping of 8,000 linear feet or more of pipe or 5,000 square feet or more of material, a fee of \$~~489.00~~~~475.00~~ plus \$~~206.00~~~~200.00~~ for each 8,000 linear feet of pipe or fraction thereof over 8,000 linear feet of pipe and for each 5,000 square feet of material or fraction thereof over 5,000 square feet of material, except as noted in [subsection \(E\)\(3\)](#).

(3) Calculation of Linear Footage

- (a) Where the outside diameter of piping insulation (wrapping) is greater than 2.35 inches, the calculation of linear footage of pipe shall be converted to square footage, the square footage of material involved to be calculated using the following equation:

$$A = \frac{3.14159 \times L \times D}{12}$$

Where:

- A = Area in square feet
- L = Linear length of piping in feet
- D = Outside diameter of pipe insulation (wrap) in inches

Such projects shall thereafter be evaluated in terms of square footage and the appropriate fee determined on the basis of total amount of material in square feet.

(4) Permit Requirements

- (a) Each High-Efficiency Particulate Arrestance (HEPA) filter or other control device used to ventilate a work area must obtain a Permit to Operate and pay the applicable fees pursuant to [District Rule 301 subsections \(C\)\(1\) and \(E\)\(7\)\(h\)](#) for an air pollution control device. This permit is good for one (1) year from the date issued and may be used on any project within the District as long as the project notification contains a copy of the "Permit to Operate".

(5) Subsequent Charges

- (a) If in the course of a Renovation Project pursuant to 40 CFR 61, Subpart M, it is determined that the project involves the removal or stripping of material such that the project requires a greater fee than was initially proposed, the owner or operator shall pay the balance of the fee.
- (b) If an owner/~~or~~ operator fails to report a change in any date as required by Rule 40 CFR 61, Subpart M, and the APCO determines that such failure necessitated expenditure of additional time by the District, over and above that upon which the fee is based, then the owner or operator shall pay an additional fee ~~of \$89.61 per hour at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of additional time~~, billable in quarter hour increments.

(F) Asbestos Waste Disposal Site Fees

- (1) The owner/operator of an asbestos waste disposal site subject to the provisions of the NESHAP for Asbestos as set forth in 40 CFR 61, -Subpart M (and as adopted by reference in District Rule 1000 subsection (C)(2)(m)) including but not limited to; active and inactive landfills; incinerators; and convection or destruction processes, shall be assessed a fee to cover the cost of the review and evaluation of plans required by law or by District rules or regulations and any inspection and monitoring requirements related thereto.
  - (a) For each facility performing disposal of asbestos-containing material for manufacturing, fabricating, demolition, renovation and/or spraying operations, the owner or operator shall pay, in addition to the fees of District Rule 301, a fee of \$~~1,030.001,000.00~~ per year.
  - (b) For each waste disposal site actively receiving asbestos-containing material for disposal which is not covered by subsection (F)(1)(a) above, the owner/~~or~~ operator shall pay, in addition to the applicable fees pursuant to District Rule 301 and any applicable fees pursuant to subsection (J)(4), a fee of \$~~1,030.001,000.00~~ per year.
  - (c) For each waste disposal site not actively receiving asbestos containing material for disposal but where asbestos-containing waste material was deposited, the owner/~~or~~ operator shall pay in addition to the applicable fees pursuant to District Rule 301 and any applicable fees pursuant to subsection (J)(4), a fee of \$~~206.00200.00~~ per year.

(G) Certificate of Occupancy Fee

- (1) Any person required to obtain a final Certificate of Occupancy from a ~~c~~City or ~~c~~County within the District shall pay a fee of \$~~103.00100.00~~ to the District for review of the project to ensure that the applicable portions of Regulation II – *Permits* and Regulation XIII – *New Source Review* have been met.

- (a) This fee shall not apply to a Certificate of Occupancy required for residential structures or for any review taking less than one (1) hour of staff time to perform.

(H) Emissions Reduction Credit (ERC) Fee

- (1) Any person applying for the issuance, transfer encumbrance and/or reclassification of Emissions Reduction Credits (ERC) pursuant to the provisions of District Rule 1402 shall pay a fee as follows.
  - (a) Any person submitting an application for ERCs pursuant to District Rule 1402 subsection (B)(1) shall pay an initial fee of ~~\$361.00~~350.00 for each application submitted, and shall pay an analysis fee based upon the actual and reasonable labor time in excess of ten (10) hours of labor, billed at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour.
  - (b) Any person submitting a document effecting an encumbrance of or transfer of ERCs pursuant to District Rule 1402 subsection (D)(2) - (4) shall pay a fee of ~~\$77.00~~75.00 for each document submitted.
  - (c) Any person who has received notification that the APCO has approved the reclassification of Class "B" ERCs to Class "A" ERCs shall pay a processing fee of ~~\$52.00~~50.00 at the time the affected Class "B" ERC Certificates are submitted for conversion to Class "A" ERC Certificates.
- (2) The District will not accept, process or issue an ERC certificate, record an encumbrance or process a transfer unless and until all applicable fees are paid in full.

(I) Monitoring Device Fees

- (1) Any owner/operator of a Facility with a Ceontinuous Emissions Monitoring System (CEMS), Ceontinuous Operacy Monitoring System (COMS), Ceontinuous Emission Rate Monitoring System (CERMS) or other monitoring system required by state or federal law or District rule shall be assessed a fee to cover the costs of District activities related to insuring that such devices are functioning properly. District activities include but are not limited to the inspection, certification testing, review of certification testing, review of data for quality assurance, and assistance in investigating system malfunctions.
- (2) Any owner/operator of a Facility with a CEMS, COMS, CERMS or other monitoring system required by state or federal law or District rule required to certify that such devices are functioning properly shall pay all direct costs associated with such tests as invoiced by the entity which is retained by the owner/operator to perform the tests.
- (3) Such Monitoring Device Fee shall be calculated based upon the reasonable time required by District staff to perform the activities at the hourly labor rate

specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour plus actual expenses.

(J) Plan and Report ReviewAnalysis Fees

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(1) Air Toxics Plan and Report ReviewAnalysis Fees

(a) Any person required to submit a Comprehensive Emissions Inventory Report (CEIR), Health Risk Assessment Plan, Health Risk Assessment, Risk Reduction Plan or ~~who voluntarily submits a Contemporaneous~~ Risk Reduction and Audit Plan pursuant to the provisions of District Rule 1320 or 1520 shall be assessed a Plan and/or Report Analysis Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours. [Updated with plans and reports referenced by these rules.]

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(b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour plus actual expenses.

(2) Dust Control Plan Analysis Fees

(a) Any person required to submit a Dust Control Plan pursuant to the provisions of District Rules 403.1 or 403.2 shall be assessed a Dust Control Plan Analysis Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours.

(b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour plus actual expenses.

(3) Source Test Protocol and Source Test Report Review Fees

(a) Any person required to submit a Source Test Protocol or Source Test Report to the District pursuant to the provisions of any by District ~~r~~Rule or ~~r~~Regulation; or ~~s~~State or ~~f~~Federal law or regulation shall be assessed a Source Test Protocol or Source Test Report ReviewPlan Analysis Fee to cover the reasonable costs and time required for District staff to review and approve of the documentation submitted which exceeds ten (10) hours.

(b) Such fee shall be calculated at the hourly labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour plus actual expenses.

(4) Solid Waste Disposal Site Fees

(a) Any owner/operator of a solid waste disposal site subject to H&S Code Section 41805.5 which is required to submit a Solid Waste Assessment Test (SWAT) Plan for District approval prior to conducting tests shall pay a filing fee of \$103.00+00.00.

- (b) Any owner/operator required to submit a SWAT Report following the completion of testing shall pay a filing fee of ~~\$103.00~~~~100.00~~.
- (c) Any owner/operator required to submit a SWAT Plan or Report shall also be assessed a SWAT Plan/Report Evaluation Fee.
  - (i) Such SWAT Plan/Report Evaluation Fee shall be calculated based upon the reasonable time required by District staff to review the applicable plan or report at ~~the hourly~~ labor rate specified in District Rule 301 subsection (C)(2)(c)(i) of \$89.61 per hour plus actual expenses.

**(K) Fees for District Publications**

- (1) Any person receiving a publication for which a fee is charged shall be assessed the designated fee.
  - (a) The APCO shall designate those publications, including information circulars, reports of technical work, or other reports, prepared by the District for which a fee shall be charged.
  - (b) Such fee shall be established by the APCO in a sum not to exceed the cost of preparation and distribution of such documents. Such fees shall be deposited in the general funds of the District.
  - (c) Any person shall be entitled to receive one (1) copy of any District publication without charge.
  - (d) Nothing in this subsection shall be construed to limit the rights of any person or of the District pursuant to the California Public Records Act as set forth in Chapter 3.5, Division 7 of Title 1 (commencing with Section §6250) of the Government Code.

**(L) State Mandated Fees**

- (1) Air Toxics “Hot Spots” Information and Assessment Fees
  - (a) Any person subject to the provisions of the Air Toxics “Hot Spots” Information and Assessment Act as amended (H&S Code §§44300 et seq.) and the regulations promulgated thereunder shall be assessed an annual fee for the various state level components required by the Act. The fee schedule is set by the California Air Resources Board (CARB) and authorizes collection of the fee by the District pursuant to the provisions of the adopting regulation.
- (2) Nonvehicular Source Fees:
  - (a) Any person subject to the provisions of Subchapter 3.8 of Division 3 of Title 17 of the California Code of Regulations, commencing with section

§90800 shall pay an annual fee as authorized by the provisions of the regulation. The fee schedule is set by ~~the~~ by CARB and authorizes collection of the fee by the District pursuant to the provisions of the adopting regulation.

(3) Portable Equipment Inspection

- (a) Any person subject to the Statewide Portable ~~Engine and~~ Equipment Registration Program ([PERP](#)) established by CARB pursuant to the provisions of H&S Code §§ 41750 et seq. and the regulations promulgated there under shall pay an inspection fee in the amount set forth in regulation for each registered portable engine or equipment unit inspected by the District.

(4) Other State Mandated Fees

- (a) Any person subject to the provisions of a ~~s~~State adopted regulation or rule that assesses a fee to cover District costs for implementing such regulation and authorizes the collection of the fee by the District shall be assessed such fee pursuant to the provisions of the adopting regulation.

(Adopted: 11/20/89; effective: 01/01/90; Amended: 06/22/15;  
Amended: mm/dd/yy)

## Rule 303 Hearing Board Fees<sup>1</sup>

### (A) General

#### (1) Purpose

- (a) To set forth fees required for various proceedings brought before the Hearing Board.

#### (2) Applicability

- (a) This rule applies to all applicants or petitioners bringing proceedings before the Hearing Board including, but not limited to, Federal, State or local government agencies or public districts.
- (b) This rule shall not apply to petitions filed by the Air Pollution Control Officer (APCO).

### (B) Fees

#### (1) Filing Fees

- (a) Every applicant or petitioner in a proceeding before the Hearing Board shall pay to the ~~Clerk or Deputy Clerk of the~~ Hearing Board, at the time of filing, a Filing Fee of ~~\$464.00~~~~450.00~~ for each petition or application. *[Fees are all paid and processed through administrative services. Conforms to current practice.]*

#### (2) Daily Appearance Fee

- (a) In addition to the Filing Fee, each petitioner or applicant with a proceeding (designated by a case number) before the Hearing Board shall pay a Daily Appearance Fee of ~~\$567.00~~~~550.00~~ per hearing day.
  - (i) This fee shall apply to the initial appearance before the full Hearing Board and all following appearances which pertain to the same proceeding as designated by case number.
  - (ii) After the initial appearance, the Daily Apppearance Fee shall be waived for any appearance (pertaining to the same proceeding) which has duration of less than one (1) hour.

<sup>1</sup> The amendment of Rule 303 includes a 3 percent increase in fees to recover the rising costs associated with various procedures brought before the Hearing Board.

- (iii) This fee shall apply regardless of the duration of the hearing, when the applicant is requesting a modification to an order for abatement.
  - (iv) This fee does not apply to single member hearings provided pursuant to Health & Safety Code §§ 40824, 40285, 42351.5 or 42359.5.
- (3) Publication Fees
  - (a) Upon demand and in addition to the payment of the foregoing fees, every petitioner for relief which requires published notice shall pay a fee to cover the actual cost of publication(s) of notice of hearing.
- (4) Group Variance Fees
  - (a) Each petitioner included in a petition for a group variance shall pay the Filing Fee and the Excess Emissions Fee.
  - (b) The Daily Appearance Fee and the Publication Fee shall be totaled and divided equally among the petitioners.
  - (c) A Product Variance shall be treated as a single entity variance for the purpose of this section.
- (5) Transcript Fees
  - (a) Any person requesting a transcript of the hearing shall pay the cost of such transcript. The parties to hearings and prehearing proceedings may be directed by the Hearing Board to pay the cost of transcripts necessary for the Hearing Board's determination of the matter, in such proportion as the Hearing Board may order.
- (6) Excess Emission Fee
  - (a) Each applicant or petitioner for a variance from these rules and regulations shall pay to the District, ifas ordered by the Hearing Board, in addition to the Filing Fee and Appearance Fee, if applicable, an Excess Emissions Fee based on the total amount of emissions discharged.
    - (i) This fee shall be calculated in accordance with the schedule set forth in Table 14.
    - (ii) Where the total excess emissions cannot be readily calculated, the petitioner shall work in concert with District staff to establish the amount of Excess Emissions Fees to be paid. In cases where District staff determines calculations or estimations cannot be made the petitioner shall pay the Minimum Excess Emissions Fee as set forth in subsection (B)(6)(c).
    - (iii) In the event that more than one (1) rule limiting the discharge of the same contaminant are violated, the Excess Emission Fee shall consist of the fee for violation which will result in the

payment of the greater sum. For the purposes of this subsection opacity rules and particulate mass emissions shall not be considered rules limiting discharge of the same contaminant.

- (iv) The ~~Excess Emissions Fee~~ shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess emissions.
- (v) If the amount of the excess emissions fee is less than the Minimum Excess Emission Fee the applicant or petitioner shall pay the higher amount.
- (vi) The Hearing Board may adjust the Excess Emission Fee based on evidence regarding emissions presented at the time of the hearing.
- (vii) The provisions of this subsection shall apply only to those rules or permit conditions that specify quantitative emission limits.

(b) Excess Visible Emission Fee

- (i) Each applicant or petitioner for a variance from District Rule 401 or Health and Safety Code Section 41701 shall pay to the District, ~~ifas~~ ordered by the Hearing Board, ~~in addition to the Filing Fee and an Appearance Fee, if applicable, and any other applicable Excess Emission Fees~~ a Excess Visible Emission Fee based on the difference between the percent opacity allowed by District Rule 401 and the percent opacity of the emissions allowed by the variance from the source or sources operating under variance in accordance with the schedule set forth in Table II.
- (ii) In the event that an applicant or petitioner is exempt from the provisions of District Rule 401, the applicant or petitioner shall pay a fee calculated based upon the difference between the opacity allowed by variance and the opacity allowed under the provisions of Health and Safety Code, Section 41701, in accordance with the schedule set forth in Table II.
- (iii) The Excess Visible Emission Fee shall be calculated by the petitioner based upon the requested number of days of operation under variance multiplied by the expected excess visible emissions.
- (iv) The Hearing Board may adjust the Excess Visible Emissions Fee based on evidence regarding emissions presented at the time of the hearing.

(c) Minimum Excess Emission Fee

- (i) When a variance is granted from a rule or rules which limit the discharge of air contaminants, such that an ~~Excess Emission Fee~~ is due, a fee of at least ~~\$103.00~~100.00 per day, per source of emissions, shall be imposed and remitted.

(C) Payments Adjustments and Refunds

(1) Adjustment of Fees

- (a) If after the term of a variance for which emissions fee have been paid, [the applicant or](#) petitioner can establish, to the satisfaction of the APCO, that the emissions were actually less than those upon which the fee was based, or the Excess Emissions Fee calculations are otherwise incorrect, a pro rata refund shall be made.
  - (i) If the adjusted Excess Emissions Fee is less than the Minimum Excess Emission Fee then the applicant or petitioner shall pay the higher amount, unless otherwise ordered by the Hearing Board.

(2) Discretionary Powers

- (a) Any person may allege that payment of any of the fees within this rule, excluding publication fees, will cause an unreasonable hardship, and may be excused from payment of such fees or a portion of such fees, by order of the Hearing Board if the [Hearing Board](#), in its discretion, determines after hearing evidence thereon that payment of such fees would cause financial or other unreasonable hardship to the [applicant or](#) petitioner.

(3) Emission Fee Refund

- (a) In the event that the petition is withdrawn or the hearing is not held for any other reason, or the variance is denied, [the applicant or](#) petitioner shall be entitled to a full refund of the emission fees.

(4) Fee Payment

- (a) Filing Fees are due upon the filing of the petition.
- (b) Daily Appearance Fees and Publication Fees and Transcript are due and payable within fifteen (15) days of notification of the amount due. Petitioners shall be notified in writing of the amount due.
- (c) Excess Emissions Fees, Excess Visible Emissions Fees and Minimum Excess Emissions Fees as calculated on the petition, or ordered by the Hearing Board at the variance ~~h~~hearing, are due and payable within fifteen (15) days of notification of calculation and amount of such fee. [Applicants or p](#)Petitioners shall be notified in writing of the calculation and the amount due.
- (d) Adjustments increasing the amount of the Excess Emissions Fee, Excess Visible Emission Fee or Minimum Excess Emission Fee, following District staff's verification of the emissions are due and payable within fifteen (15) days of notification of the amount due. Petitioners shall be notified in writing of the amount due.
- (e) Notification may be given by personal service or by deposit, ~~postpaid~~, in the [United States First Class](#) mail and shall be considered effective upon the date of personal service or five (5) days from the date of mailing.

- (f) For the purpose of this rule, the fee payment shall be considered to be received by the District if it is postmarked by the United States Postal Service on or before the expiration date stated on the billing notice. If the expiration date falls on a Saturday, Sunday, or a state holiday, the fee payment may be postmarked on the next business day following the Saturday, Sunday, or the state holiday with the same effect as if it had been postmarked on the expiration date.
  - (g) Invalidation for Failure to Pay Fees
    - (i) Failure to pay any fee when due shall automatically invalidate the variance.
  - (h) Request for Time Extension of Payment Due
    - (i) Whenever this rule requires fees to be paid by a certain date, in order to avoid invalidation of a variance or refusal of acceptance of other petitions, the applicant or petitioner may, for good cause, request the APCO to grant an extension of time, not to exceed ninety (90) days, within which the fees shall be paid. Any request for extension of time shall be presented in writing, and accompanied by a statement of reasons why the extension should be granted.
  - (i) The Hearing Board, upon good cause shown, ~~may~~ authorize incremental payments of Excess Emission Fees, Excess Visible Emission Fees or Minimum Excess Emission Fees.
  - (j) Service Charge for Returned Check
    - (i) Any person who submits a check to the District on insufficient funds or on instructions to stop payment on the check, absent an overcharge or other legal entitlement to withhold payment, shall be subject to a \$25.00 service charge.
- (5) Filing Fee Refunds
- (a) The Filing Fee or a portion of the Filing Fee may be refunded to the petitioner in the following circumstances:
    - (i) When the Hearing Board reverses the decision of the APCO in an appeal from denial or a conditional approval of a ~~permit~~ Authority to ~~C~~onstruct or a ~~P~~ermit to ~~O~~perate.
    - (ii) When the petition is withdrawn, and the applicant or petitioner notifies the ~~Clerk of the~~ Hearing Board in writing not less than four (4) days prior to the scheduled appearance, or the hearing is not held for any other reason, the applicant or petitioner shall be entitled to a refund of fifty percent (50%) of the filing fee.

(6) Waiver of Fees

- (a) All fees associated with this rule shall be waived for any petition for a variance filed as the result of any event declared to be a "state of emergency" by the local, state, or federal authorities.

TABLE I

SCHEDULE OF EXCESS EMISSIONS FEES

<u>AIR CONTAMINANT</u>	<u>DOLLARS PER TON</u>
Total organic gases, except those containing sulfur	\$ <del>103.00</del> <del>400.00</del>
Carbon monoxide	\$ <del>2.00</del> <del>1.50</del>
Oxides <del>of</del> nitrogen (expressed as nitrogen dioxide)	\$ <del>103.00</del> <del>400.00</del>
<del>Oxides of Gaseous</del> sulfur <del>compounds</del> (expressed as sulfur dioxide)	\$ <del>103.00</del> <del>400.00</del>
Particulate matter	\$ <del>103.00</del> <del>400.00</del>

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TABLE II  
SCHEDULE OF EXCESS VISIBLE EMISSION FEE

For each source with opacity emissions in excess of twenty (20) percent, the allowable limit set forth in District Rule 401 ~~of the Rules and Regulations of the District~~, or Section 41701 of the State Health and Safety Code, the fee is calculated as follows:

DISTRICT RULE 401

$$Fee = (Opacity^* \text{ equivalent} - 20) \times \text{number of days allowed by variance} \times \$3.00$$

HEALTH AND SAFETY CODE SECTION 41701

$$Fee = (Opacity^* \text{ equivalent} - 40) \times \text{number of days allowed by variance} \times \$3.00$$

\*Where "Opacity" equals maximum opacity of emissions, in percent of equivalent opacity in terms of Ringelmann numbers, allowed by the variance.

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**Appendix “B”**  
Public Notice Documents

1. Proof of Publication – Daily Press
2. Proof of Publication – Riverside Press Enterprise

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**PROOF OF PUBLICATION**

(2015.5 C.C.P.) RECEIVED  
MDAQMD

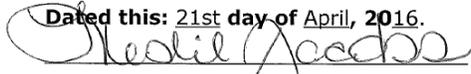
STATE OF CALIFORNIA, 16 APR 25 AM 8:14  
County of San Bernardino

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:

April 21

All in the year 2016.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated this: 21st day of April, 2016.  
  
Signature  
Leslie Jacobs

This space is the County Clerk's Filing Stamp

FILED  
MOJAVE DESERT AQMD  
CLERK OF THE BOARD

APR 25 2016

BY 

**Proof of Publication of  
PUBLIC NOTICE**

**PUBLIC NOTICE**  
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
NOTICE OF PUBLIC HEARING PROPOSED BUDGET FOR FISCAL YEAR 2016-17

**NOTICE IS HEREBY GIVEN** that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will hold a public hearing for the exclusive purpose of considering the Proposed Budget for Fiscal Year 2016-17. Comments regarding the proposed budget may be submitted in writing before, during, or after the hearing.

**DATE:** May 23, 2016  
**TIME:** 10:00 A.M.  
**LOCATION:** 14306 Park Avenue, Victorville, CA 92392

Copies of the Proposed Budget for 2016-17 are posted on line at [www.mdaqmd.ca.gov](http://www.mdaqmd.ca.gov). Copies are also on file and may be inspected at the MDAQMD Office at 14306 Park Avenue, Victorville, CA 92392. Paper copies may be ordered by written request and a check for \$3.50 made payable to the MDAQMD at 14306 Park Avenue, Victorville, CA 92392. An electronic copy may be obtained at no charge by e-mailing a request to [jbracy@mdaqmd.ca.gov](mailto:jbracy@mdaqmd.ca.gov).

Contact Jean Bracy at (760) 245-1661, extension 6214 for further information.

**NOTICE OF AVAILABILITY OF DRAFT RULE AND PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO REGULATION III - FEES**

**NOTICE IS HEREBY GIVEN** that Governing Board of the MDAQMD will hold a public hearing regarding proposed amendments to Regulation III Fees (specifically Rules 301, 302, and 303) mentioned above to comply with the requirements of Health & Safety Code §42311(e). An additional public hearing will be held on June 27, 2016 at 10:00 A.M. at the same place mentioned above.

Overall increases in operating expenses require adjustments in permit fees from time to time. The MDAQMD is proposing a fee increase of 3.00% effective January 1, 2017 to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections and audits, and the administrative enforcement and adjudication thereof.

If you would like a copy of the proposed amendments you may request one by calling (760) 245-1661. Copies are also available at the MDAQMD offices and a copy will be posted on the MDAQMD website at [www.mdaqmd.ca.gov](http://www.mdaqmd.ca.gov). You are also invited to submit comments on proposed amendments to Regulation III - Fees. Comments regarding the proposed amendments may be presented at the meeting and/or submitted in writing to: Mojave Desert Air Quality Management District, 14306 Park Avenue, Victorville, CA 92392-2310, Attn: Rule 301 Comments

Written comments should be received on or before June 24, 2016 in order to be considered with a response. If you have any questions, please feel free to contact Ms. Jean Bracy (760-245-1661 extension 6214) or Mr. Alan De Salvo at (760) 245-1661 extension 6726.

Published in the Daily Press April 21, 2016 (Tn-84)

Printed at: 9:45 am  
On: Monday, Apr 18, 2016  
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**THE PRESS-ENTERPRISE**  
Classified Advertising  
Proof

1825 Chicago Ave, Suite 100  
Riverside, CA 92507  
(951) 884-1200  
(800) 514-7253  
(951) 368-9018 Fax

**Account Information**

Phone #: 780-245-1661  
Name: MOJAVE DESERT AQMD  
Address: 14305 PARK AVE  
VICTORVILLE, CA 92382

Account #: 1100142334  
Client:  
Placed By: Deanna Hernandez  
Fax #:

**Ad Information**

Placement: Public Notice FR  
Publication: PE Riverside, PE.com

Start Date: 04/21/2016  
Stop Date: 04/21/2016  
Insertions: 1 print / 1 online

Rate code: Gen Pub Notice-PE  
Ad type: C Legal

Size: 2 X 73 LI  
Bill Size: 146.00

Amount Due: \$292.00

**Ad Copy:**



**PUBLIC NOTICE**

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT**

**NOTICE OF PUBLIC HEARING PROPOSED BUDGET FOR FISCAL YEAR 2016-17**

**NOTICE IS HEREBY GIVEN** that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD) will hold a public hearing for the exclusive purpose of considering the Proposed Budget for Fiscal Year 2016-17. Comments regarding the proposed budget may be submitted in writing before, during, or after the hearing.

**DATE:** May 23, 2016 **TIME:** 10:00 A.M.  
**LOCATION:** 14305 Park Avenue, Victorville, CA 92382

Copies of the Proposed Budget for 2016-17 are posted on line at [www.mdaqmd.ca.gov](http://www.mdaqmd.ca.gov). Copies are also on file and may be inspected at the MDAQMD Office at 14305 Park Avenue, Victorville, CA 92382. Paper copies may be ordered by written request and a check for \$3.50 made payable to the MDAQMD at 14305 Park Avenue, Victorville, CA 92382. An electronic copy may be obtained at no charge by e-mailing a request to [jbracy@mdaqmd.ca.gov](mailto:jbracy@mdaqmd.ca.gov).

Contact Jean Bracy at (760) 245-1661, extension 0214 for further information.

**NOTICE OF AVAILABILITY OF DRAFT RULES AND PUBLIC HEARING REGARDING PROPOSED AMENDMENTS TO REGULATION III - FEES**

**NOTICE IS HEREBY GIVEN** that Governing Board of the MDAQMD will hold a public hearing regarding proposed amendments to Regulation III Fees (specifically Rules 301, 302, and 303) at the same time and place mentioned above to comply with the requirements of Health & Safety Code §42311(e). An additional public hearing will be held on June 27, 2016 at 10:00 A.M. at the same place mentioned above.

Overall increases in operating expenses require adjustments in permit fees from time to time. The MDAQMD is proposing a fee increase of 3.00% effective January 1, 2017 to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

If you would like a copy of the proposed amendments you may request one by calling (760) 245-1661. Copies are also available at the MDAQMD offices and a copy will be posted on the MDAQMD website at [www.mdaqmd.ca.gov](http://www.mdaqmd.ca.gov). You are also invited to submit comments on proposed amendments to Regulation III - Fees. Comments regarding the proposed amendments may be presented at the meeting and/or submitted in writing to: Mojave Desert Air Quality Management District, 14305 Park Avenue, Victorville, CA 92382-2010, Air Rule III Comments

Written comments should be received on or before June 24, 2016 in order to be considered with a response. If you have any questions, please feel free to contact Ms. Jean Bracy (760-245-1661 extension 0214) or Mr. Alan De Balvin at (760) 245-1661 extension 0209. 4/21

**Appendix “C”**  
Public Comments and Responses

No comments received to date.

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**Appendix “D”**  
California Environmental Quality Act  
Documentation

1. Draft NOE – San Bernardino County
2. Draft NOE – Riverside County

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**NOTICE OF EXEMPTION**

**TO:** County Clerk  
San Bernardino County  
385 N. Arrowhead, 2<sup>nd</sup> 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 MDAQMD Regulation III – *Fees*.

**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:** Overall increases in operating expenses require adjustments in permit fees from time to time. The MDAQMD is proposing to amend Regulation III – *Fees* with a fee increase of three percent (3%) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

**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 Regulation III are exempt from CEQA review. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts because the proposed amendments only adjusts fees, makes minor format corrections, and provides clarification. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

**LEAD AGENCY CONTACT PERSON:** Eldon Heaston **PHONE:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_ **TITLE:** Executive Director **DATE:** June 27, 2016

**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

X MDAQMD Clerk of the Governing Board

**PROJECT TITLE:** Amendment of MDAQMD Regulation III – Fees.

**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:** Overall increases in operating expenses require adjustments in permit fees from time to time. The MDAQMD is proposing to amend Regulation III – Fees with a fee increase of three percent (3%) to recover the rising costs associated with issuing licenses and permits, performing investigations, inspections, and audits, and the administrative enforcement and adjudication thereof.

**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 Regulation III are exempt from CEQA review. There is no potential that the amendments might cause the release of additional air contaminants or create any adverse environmental impacts because the proposed amendments only adjusts fees, makes minor format corrections, and provides clarification. Therefore, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

**LEAD AGENCY CONTACT PERSON:** Eldon Heaston **PHONE:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_ **TITLE:** Executive Director **DATE:** June 27, 2016

**DATE RECEIVED FOR FILING:**

## Appendix “E” Bibliography

The following documents were consulted in the preparation of this staff report.

1. League of California Cities – *Proposition 26 Implementation Guide*. (April 2011): <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Hot-Issues/Proposition-26-Implementation-Guide>
2. CPI Detailed Report-February 2015: <http://www.bls.gov/cpi/cpid1602.pdf>

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**Appendix “F”**  
Cost Analysis

1. Budget Committee Fee Increase, Budget Committee Meeting, April 11, 2016

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1.

		<b>FEE INCREASE</b>	
		Budget Committee Meeting – April 11, 2016	
		Agenda Item No. #	
<b>Statement of Change in Expenditures</b>			
<b>Possible Fee Increases</b>	<b>Est FY 2016</b>	<b>3.00%</b>	<b>3.50%</b>
Permit Fees	\$3,900,423	\$117,013	\$136,515
Title V	\$275,827	\$8,275	\$9,654
Application Fees	\$93,294	\$2,799	\$3,265
	<b>\$4,269,544</b>	<b>\$128,086</b>	<b>\$149,434</b>
	<b>Adopted</b>	<b>Proposed</b>	<b>Budget</b>
<b>Revenues General Fund</b>	<b>Budget</b>	<b>Budget</b>	<b>Change</b>
Permit Fees	\$3,900,000	\$4,010,000	\$110,000
Title V	\$285,000	\$285,000	\$0
Application Fees	\$89,850	\$104,768	\$14,918
Contracts	\$1,314,715	\$1,300,000	-\$14,715
Federal Contracts	\$25,000	\$24,900	-\$100
Asbestos	\$55,000	\$25,000	-\$30,000
PM2.5	\$21,200	\$21,200	\$0
Program Revenue	\$877,000	\$847,000	-\$30,000
State Revenue	\$180,000	\$189,490	\$9,490
PSD	\$85,415	\$84,850	-\$565
Other Revenue	67500	53700	-13800
<b>Total</b>	<b>\$6,900,680</b>	<b>\$6,945,908</b>	<b>\$45,228</b>
	<b>EOY FY16</b>	<b>Budget</b>	<b>Total</b>
	<b>Estimates</b>	<b>FY17</b>	<b>Increase</b>
<b>Personnel Expenditures</b>			
Salaries & Wages	4031064	4255512	224448
Retirement	1575036	1608354	33318
<b>Total</b>	<b>5606100</b>	<b>5863866</b>	<b>257766</b>
<p>Roughly 84% of total expenditures for FY17 is related to personnel. Costs are expected to increase by 4.6% next year. A fee increase is required to mitigate some of the costs.</p> <p>Personnel expenditures for staff responsible for all Rule 301 and its related activities is expected to increase by <b>\$158,663</b>.</p> <p>A 3% increase will generate an additional <b>\$128,086</b>. A 3.5% increase will generate an additional <b>\$149,434</b>.</p> <p>The change in the costs of personnel responsible for all Rule 301 and its related activities (unfunded by other programs) will be the basis for the fee increase. A portion of the costs (14%) of Rule 301 personnel related expenditures are funded through contracts and other programs.</p>			

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

*AGENDA ITEM 10*

**DATE:** June 27, 2016

**RECOMMENDATION:** Conduct a public hearing to consider the amendment of Regulation XIII – *New Source Review* (specifically Rules 1300 – *General*, 1302 – *Procedure* and 1320 – *New Source Review for Toxic Air Contaminants*) and adoption of Rule 1600 – *Prevention of Significant Deterioration*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Continue hearing to July 25, 2016.

**SUMMARY:** Regulation XIII – *New Source Review* (specifically Rules 1300 – *General*, 1302 – *Procedure* and 1320 – *New Source Review for Toxic Air Contaminants*) and adoption of Rule 1600 – *Prevention of Significant Deterioration* are proposed for amendment and adoption to allow the Mojave Desert Air Quality Management District (MDAQMD) to officially be delegated authority to implement the Federal Prevention of Significant Deterioration (PSD) Program and to upgrade various provisions in the New Source Review (NSR) program pursuant to U.S. Environmental Protection Agency (USEPA) requirements. Comments received from USEPA and CARB will require substantive changes to the proposed rules necessitating a continuance.

**CONFLICT OF INTEREST:** None.

**BACKGROUND:** The Federal Clean Air Act (FCAA) requires that states/local air districts adopt a preconstruction review program for all new and modified stationary sources of pollutants for which their jurisdiction has been classified nonattainment for the Federal Ambient Air Quality Standards (FAAQS). This review applies to “Major” sources of nonattainment air contaminants under the “New Source Review” or “Nonattainment New Source Review” (NSR or NANSR) and is implemented via of Regulation XIII – *New Source Review*. The FCAA also requires that a preconstruction review be performed on certain large stationary sources of attainment air pollutants to ensure that degradation of the air quality does not occur in areas which are currently in compliance with the FAAQS. This program is commonly referred to as “Prevention of Significant Deterioration” (PSD) and has historically been performed in the MDAQMD by the USEPA Region IX.

USEPA has recently been requesting and requiring local air districts to adopt rules and regulation such that they can implement the PSD preconstruction review process and be

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

*AGENDA ITEM 10*

**PAGE 2**

delegated the authority to issue PSD permits at the local level. At the same time USEPA is requiring that all local districts' rules involving NANSR provide public notice for a significant number of so called "minor" permitting activities. Furthermore, the Federal Operating Permit Program (Title V Program) contains provisions which would, if approved by USEPA, allow NANSR, PSD and Title V permits and permit amendments to be issued simultaneously. These provisions, called "Enhanced NSR," enable a delegated air district to cut down substantially on the notice and review time required to issue Federal Operating Permits and their amendments.

The proposed amendments to Regulation XIII – *New Source Review* (specifically Rules 1300 – *General*, 1302 – *Procedure* and 1320 – *New Source Review for Toxic Air Contaminants*) and proposed new Rule 1600 – *Prevention of Significant Deterioration* are designed to allow USEPA to delegate PSD authority, adjust the noticing requirements of NANSR to comply with recent USEPA directives regarding the noticing of "minor" source permitting activities, and to allow the MDAQMD to request Enhanced NSR designation such that permitting activities for facilities subject to Title V may be performed concurrently. Additionally the proposed amendments and new rule adoption will clarify some provisions, provide appropriate cross-citations, and correct some minor discrepancies with USEPA requirements contained in the current rules.

The proposed amendments were recommended for approval by the Technical Advisory Committee on June 14, 2016. USEPA and CARB provided comments on June 14, 2016 which required substantive changes to the proposed rules. Such changes necessitate continuation of the the adoption/amendments until the July 25, 2016 meeting.

A Notice of Exemption, Categorical Exemption (Class8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the proposed amendment of Regulation XIII – *New Source Review* and adoption of Rule 1600 – *Prevention of Significant Deterioration* 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 June 14, 2016.

**FINANCIAL DATA:** No increase in appropriation is anticipated.

**PRESENTER:** Alan DeSalvio; Deputy Executive Director, Mojave Desert Operations.



Draft  
Staff Report  
Proposed Amendments to  
Regulation XIII – *New Source Review* and  
Adoption of Rule 1600 – *Prevention of Significant  
Deterioration (PSD)*

For amendment and adoption on  
June 27, 2016

14306 PARK AVE, VICTORVILLE, CA 92392-2310  
PHONE: (760) 245-1661  
FAX: (760) 245-2699

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**STAFF REPORT**  
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## List of Acronyms

BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CO	Carbon Monoxide
FCAA	Federal Clean Air Act
FONA	Federal Ozone Nonattainment Area
FOP	Federal Operating Permit; also referred to as Title V Permit.
H <sub>2</sub> S	Hydrogen Sulfide
H&S Code	California Health & Safety Code
HAP	Hazardous Air Pollutant
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
NAAQS	National Ambient Air Quality Standards
NANSR	Nonattainment New Source Review
NSR	New Source Review
NO <sub>2</sub>	Nitrogen Dioxide
NO <sub>x</sub>	Oxides of Nitrogen
O <sub>3</sub>	Ozone
Pb	Lead
PM	Particulate Matter
PM <sub>10</sub>	Particulate Matter under 10 microns
PM <sub>2.5</sub>	Particulate Matter under 2.5 microns
PSD	Prevention of Significant Deterioration
ROC	Reactive Organic Compound.
SAAQS	State Ambient Air Quality Standards
SCAQMD	South Coast Air Quality Management District
SIP	State Implementation Plan
SO <sub>2</sub>	Sulfur Dioxide
SO <sub>x</sub>	Oxides of Sulfur
TAC	Toxic Air Contaminant
Title V	Federal Operating Permit Program (Title V of the Federal Clean Air Act).
TPY	Tons per year
USEPA	U.S. Environmental Protection Agency
VOC	Volatile Organic Compounds
WMDONA	Western Mojave Desert Ozone Nonattainment Area

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**STAFF REPORT**  
**Regulation XIII – *New Source Review* and**  
**Rule 1600 – *Prevention of Significant Deterioration***

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 Federal Clean Air Act (FCAA) requires that states/local air districts adopt a preconstruction review program for all new and modified stationary sources of pollutants for which their jurisdiction has been classified nonattainment for the Federal Ambient Air Quality Standards (FAAQS) (See 42 USC §7511a(b)). This program is commonly referred to as “New Source Review” or “Nonattainment New Source Review” (NSR or NANSR) and must comply with the applicable Federal implementing regulations which are primarily contained in 40 CFR 51.160 et seq. In addition, the California Clean Air Act (CCAA) requires local air districts to not only have a permitting program (Health & Safety Code §§42300 et seq.) but also to develop appropriate plans to attain and maintain the State Ambient Air Quality Standards (SAAQS) (Health & Safety Code §§40910 et seq.). The Mojave Desert Air Quality Management District (MDAQMD or District) has complied with these two requirements in part through the adoption, amendment and implementation of Regulation XIII – *New Source Review*.

The FCAA also requires that a preconstruction review be performed on certain large stationary sources of attainment air pollutants to ensure that degradation of the air quality does not occur in areas which are currently in compliance with the FAAQS (42 U.S.C §§7470 et seq.). This program is commonly referred to as “Prevention of Significant Deterioration” (PSD) and must also comply with applicable Federal implementing regulations which are primarily contained in 40 CFR 52.21. Historically this type of preconstruction review has been performed for many local air districts, the MDAQMD included, by the regional office of USEPA.

USEPA has recently been requesting and requiring local air districts to adopt rules and regulation such that they can implement the PSD preconstruction review process and be delegated the authority to issue PSD permits at the local level. At the same time USEPA is requiring that all local districts’ rules involving NANSR provide public notice for a significant number of so called “minor” permitting activities. Furthermore, the Federal Operating Permit Program (Title V Program) contains provisions which would, if approved by USEPA, allow NANSR, PSD and

Title V permits and permit amendments to be issued simultaneously. These provisions, called “Enhanced NSR,” enable a delegated air district to cut down substantially on the notice and review time required to issue Federal Operating Permits (FOPs) and their amendments.

The proposed amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration* are designed to allow USEPA to delegate PSD authority, adjust the noticing requirements of NANSR to comply with recent USEPA directives regarding the noticing of “minor” source permitting activities, and to allow the MDAQMD to request Enhanced NSR designation such that permitting activities for facilities subject to Title V may be performed concurrently. Additionally the proposed amendments and new rule adoption will clarify some provisions, provide appropriate cross-citations, and correct some minor discrepancies with USEPA requirements contained in the current rules.

### III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD or District) amend Regulation XIII – *New Source Review* and adopt proposed Rule 1600 – *Prevention of Significant Deterioration* and approve the appropriate California Environmental Quality Act (CEQA) documentation. This action is necessary to allow the MDAQMD to officially be delegated authority to implement the Federal PSD Program and to upgrade various provisions in the existing NSR program pursuant to USEPA requirements.

#### IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct amendment of Regulation XIII – *New Source Review* and adoption of Rule 1600 – *Prevention of Significant Deterioration*. 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
- Exemption
- N/A Negative Declaration
- N/A Environmental Impact Report
- Appropriate findings, if necessary.
- Public Notice & Comment

##### **SUPPLEMENTAL ENVIRONMENTAL ANALYSIS (RULES & REGULATIONS ONLY):**

- Environmental impacts of compliance.
- Mitigation of impacts.
- Alternative methods of compliance.

##### **OTHER:**

- Written analysis of existing air pollution control requirements
- 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 amendment of Regulation XIII and adoption of proposed Rule 1600. 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 Board in making these findings.

##### a. Necessity:

The proposed amendment of Regulation XIII and adoption of proposed Rule 1600 are necessary to allow the MDAQMD to officially be delegated authority to implement the Federal PSD Program and to upgrade various provisions in the existing NSR program pursuant to USEPA requirements.

##### b. Authority:

The District has the authority pursuant to California Health and Safety Code (H & S Code) §40702 to adopt, amend or repeal rules and regulations necessary and proper to execute the powers and duties imposed upon the District by Division 26 of the H & S Code (commencing with §39000). The District is also required to adopt and enforce rules and regulations to attain and maintain the FAAQS and SAAQS (H & S Code §40001(a)).

##### c. Clarity:

The proposed amendment of Regulation XIII and adoption of proposed Rule 1600 are clear in that they are written so that the persons subject to the Rule can easily understand the meaning.

##### d. Consistency:

The proposed amendment of Regulation XIII and adoption of proposed Rule 1600 is in harmony with, and not in conflict with or contradictory to any State law or regulation, Federal law or regulation, or court decisions in that the underlying laws and regulations require such adoption and/or have provisions allowing

for the delegation of authority to the District based upon the adoption of appropriate rules and regulations.

e. Nonduplication:

The proposed amendment of Regulation XIII and adoption of proposed Rule 1600 do not impose the same requirements as any existing State or Federal law or regulation because the underlying laws and regulations either require the adoption of implementing rules and regulations or allow such adoption for the purpose of delegation of authority for specific programs to the local level.

f. Reference:

The District has the authority pursuant to H & S Code §40702 to adopt, amend or repeal rules and regulations. The District is also required to adopt and enforce rules and regulations to attain and maintain the FAAQS and SAAQS (H & S Code §40001(a)).

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed amendment of Regulation XIII and adoption of proposed Rule 1600 was published May 27, 2016. 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 amendment of Regulation XIII and adoption of proposed Rule 1600 and how they were satisfied.

a. Satisfaction of Underlying Federal Requirements:

The FCAA requires that certain large new or modified stationary sources of air pollutants obtain permits prior to construction or modification (42 USC §§7412(i)(1); 7475, 7502(b)(6); 7503, 7511a(a)(2)(C)). The program covering pollutants for areas designated nonattainment for that pollutant is commonly referred to as NSR or NANSR and must be included as part of the area’s State Implementation Plan (SIP). Such programs must comply with the applicable implementing regulations which are primarily contained in 40 CFR 51.160 et seq. The program covering attainment pollutants is commonly referred to as PSD and must

comply with the implementing regulations primarily contained in 40 CFR 52.21.

In addition, the FCAA requires all SIPs to contain a program to regulate the construction and modification of any stationary source such that the FAAQS are achieved and maintained (42 USC §7410(a)(2)(C)). Recent USEPA guidance has clarified that an integral part such regulation requires not only the public review of actions regarding “major stationary sources” of nonattainment air pollutants but also of so called “minor” sources.<sup>1</sup>

The FCAA as amended in 1990 also requires a comprehensive permitting program containing all applicable requirements for permits for major sources of toxic air contaminants and nonattainment air pollutants commonly known as Federal Operating Permits (FOP) or Title V Permits (42 USC §§7661a et seq.). 40 CFR 70.7(d)(5) allows for the incorporation of preconstruction review permitting requirements as administrative permit amendments upon USEPA approval so long as the preconstruction review requirements are substantially similar to those contained in 40 CFR 70.6, 70.7 and 70.8 (Enhanced NSR).

The MDAQMD has a NANSR program contained in its Regulation XIII – New Source Review. Prior versions of this regulation have been approved into the SIP while more recent versions have been submitted as SIP revisions and are currently SIP pending. PSD preconstruction review and permit issuance has been performed by USEPA Region IX for sources within the District. The proposed amendment of Regulation XIII and adoption of proposed Rule 1600 have been designed upgrade and clarify the current NANSR program including the addition of public review requirements for so called “minor” sources of nonattainment air contaminants. In addition, these proposed changes will put in place rules and procedures to allow the MDAQMD to request delegation of the PSD program from USEPA. Furthermore, the proposed changes will upgrade the current NANSR and PSD requirements such that they are substantially similar to those contained in 40 CFR 70.6, 70.7 and 70.8 such that the MDAQMD program can be approved as “enhanced NSR” enabling Facilities with FOPs to use the administrative permit amendment process to update their Title V permits after complying with the applicable NSR and/or PSD requirements.

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<sup>1</sup> See USEPA Policy Memorandum “Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3)” from Janet McCabe, Principal Deputy Assistant Administrator, Office of Air and Radiation, 4/17/2012 ([https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20120417\\_mccabe\\_minor\\_nsr\\_program.pdf](https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20120417_mccabe_minor_nsr_program.pdf))

In addition the proposed amendments and new rule are subject to all the requirements of a SIP submittal. A prior version of Regulation XIII is included in the SIP and the current version has been submitted and is thus considered "SIP Pending." Both Regulation XIII and Proposed New Rule 1600 will need to be SIP approved to allow the delegation of the PSD program. The criteria for determining completeness of a SIP submission is set forth in 40 CFR 51, Appendix V, 2.0. This section of the staff report indicates how the completeness determination is satisfied.

Furthermore FCAA §110(l) (42 U.S.C. §7410(l)) requires that any SIP amendment which might potentially be construed as a relaxation of a requirement provide a demonstration that the proposed change will not interfere with any FCAA requirements concerning attainment or Reasonable Further Progress (RFP). Thirdly, California Law (H&S Code §§42500 et seq.) requires a similar analysis when amendments are proposed to a nonattainment NSR program to show that the proposed changes are not less stringent than the FCAA provisions and implementing regulations which were in existence as of December 30, 2002 (H&S Code §42504). Please see section (VI)(E) for the applicable analysis.

b. Public Notice and Comment:

Notice for the public hearing for the proposed amendment of Regulation XIII and adoption of proposed Rule 1600 was published May 27, 2016. 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 amendment of Regulation XIII and adoption of proposed Rule 1600 and the accompanying draft staff report were made available to the public on or before May 23, 2016. The proposed amendments were also reviewed by the Technical Advisory Committee, a committee consisting of a variety of regulated industry and local governmental entities, on June 14, 2016

d. Notice to Specified Entities:

Copies of the proposed amendment of Regulation XIII and adoption of proposed Rule 1600 and the accompanying draft staff report were sent to all affected agencies. The proposed amendments were sent to the California Air Resources Board

(CARB) and U.S. Environmental Protection Agency (USEPA) on May 13, 2016.

e. Public Hearing:

A public hearing to consider the proposed amendment of Regulation XIII and adoption of proposed Rule 1600 has been set for June 27, 2016.

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 powers and duties imposed upon the District by Division 26 of the H & S Code (commencing with §39000). The District is also required to adopt and enforce rules and regulations to attain and maintain the FAAQS and SAAQS (H & S Code §40001(a))

g. Applicable State Laws and Regulations Were Followed:

Public notice and hearing procedures pursuant to H&S Code §§40725-40728 have been followed. See Section (V)(A)(1) above for compliance with state findings required pursuant to H&S Code §40727. See Section (V)(B) below for compliance with the required analysis of existing requirements pursuant to H&S Code §40727.2. See Section (V)(C) for compliance with economic analysis requirements pursuant to H&S Code §40920.6. See Section (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. The proposed amendments to Regulation XIII and proposed new Rule 1600 apply to all new or modified Facilities emitting air contaminants over particular amounts as defined in the applicable rules. However, these rules are primarily procedural in nature and meant to implement specific provisions of federally mandated programs namely NANSR and PSD. They do not in and of themselves mandate specific control strategies. Instead they are used to procedurally place permit conditions upon each new or modified piece of equipment or source type to implement the specific air pollution control requirements applicable to such equipment or source type. Therefore, as rules implementing federal programs rather than providing specific control requirements, this analysis is not necessary.

## C. ECONOMIC ANALYSIS

### 1. General

The proposed amendments to Regulation XIII and proposed new Rule 1600 are primarily modifications to existing programs. Currently all permitting operations, including NANSR reviews are funded by Rule 301 Permit Fees and the proposed amendments do not adjust these fees. The PSD program is currently implemented by USEPA. Upon adoption of the proposed amendments to Regulation XIII and proposed new Rule 1600 the District will request delegation of the PSD program. Once delegation has been provided to the District by USEPA, new or modified Facilities needing PSD analysis submitting applications would be subject to the Project Analysis Fee for Complex Sources (Complex Source Fee) pursuant to District Rule 301(C)(2). Such fees are charged as an hourly rate subtracted from a deposit. Most Facilities subject to the provisions of NANSR already pay this fee and thus the economic impact for obtaining a PSD permit will be reflected as an increase in the man hours required to issue such permit. Part of the proposed amendments to Regulation XIII will impose additional notice requirements upon certain new or modified Facilities. These Facilities do not require notice under the current rules. For those Facilities requiring notice which are already subject to the Complex Source Fee actual District cost for noticing will be passed through and charged against the deposit (Rule 301(C)(2)(e)). For other Facilities requiring additional notice there is no such pass through fee. The District does not expect that there will be many Facilities requiring extra notice that are not already subject to the pass through fee. The District will attempt to minimize all notice costs by providing alternative notice via its website for any permit actions not rising to a certain level of significance. Certain larger Facilities holding District FOPs may see some cost savings in that publication of notice in a newspaper with its attendant pass through costs may no longer be required for some FOP permit modifications upon USEPA's approval of the District's application for Enhanced NSR designation.

### 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 amendments to Regulation XIII and proposed new Rule 1600 as procedural rules do not require specific control measures on particular types of equipment and thus this analysis is not required.

This analysis is primarily intended for source specific prohibitory rules rather than procedural rules. However, the proposed amendments and new rule do require Best Available Control Technology (BACT) to be placed upon certain new or modified emissions units. While this might technically be considered the

imposition of BARCT or “all feasible measures” the specific controls required for a particular piece of equipment will need to be analyzed on a case by case basis as applications are submitted. The particular equipment involved in each application will be subject to the provisions of the applicable State, Federal and/or District rules governing the particular source category involved. Due to the necessity of an application to specify BACT this analysis, if such is even applicable, is too speculative to be performed at this time. Please note the imposition of specific BARCT or “all feasible measures” by any new or modified prohibitory rule will require an incremental cost analysis upon adoption/amendment.

#### D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendments to Regulation XIII and proposed new Rule 1600 was determined.

1. The proposed amendments to Regulation XIII and proposed new Rule 1600 meet the CEQA definition of “project”. They are not “ministerial” actions.

2. The proposed amendments to Regulation XIII and proposed new Rule 1600 are exempt from CEQA Review because the proposed action is the amendment/adoption of procedural rules designed to protect the environment. Specifically, the proposed amendment of Regulation XIII increases protections in that it provides for additional agency and public review of a greater number of new or modified Facilities. In addition, the amendments and proposed new Rule 1600 are designed to allow the delegation of a currently existing program, PSD, from USEPA to the District will all the specific requirements and protections which currently exist intact. Therefore, there is no potential that the proposed amendments and new rule might cause the release of additional air contaminants or create any other 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 potential environmental impacts of compliance with the proposed amendments to Regulation XIII and proposed new Rule 1600 should not have any additional environmental consequences. The proposed amendments and adoption of new rule are primarily procedural in nature and are designed to enhance the review of various new and modified Facilities under the existing NANSR and PSD programs and to transfer the responsibility of the latter to the District. These programs do not impose specific requirements on specific sources or source categories. Instead they require compliance with other source specific rules and regulations as well as requiring compliance with particular measures such as BACT. As procedural rules the specific application of the requirements is highly dependent upon the nature and type of the application submitted for a new or

modified Facility. Thus, analysis of specific potential impacts regarding a particular project is too speculative to be performed in this particular instance.

In addition, it must be noted that any new or modified Facility will in and of itself be required to undergo CEQA review when proposed thus specific potential environmental impacts caused by the imposition of requirements such as BACT will be analyzed at that time.

2. Mitigation of Impacts

N/A

3. Alternative Methods of Compliance

N/A

F. PUBLIC REVIEW

See Staff Report Section (V)(A)(1)(g) and (2)(b), as well as Appendix “B”

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

The proposed amendments to Regulation XIII and proposed new Rule 1600 will affect in part any application for a new or modified permit in the MDAQMD in that Rule 1302 – Procedure governs all applications and ensures that all appropriate analyses are performed prior to permit issuance. Exactly which analyses are applicable to a particular Facility or Emissions Unit are based upon the proposed type and quantity of emissions produced.

1. Nonattainment NSR Thresholds

The nonattainment NSR thresholds are not changed by the proposed amendments to Regulation XIII. The MDAQMD’s Federal nonattainment designation have not changed since Regulation XIII was last amended in 2001 and 2006 despite the recent amendments to the National Ambient Air Quality Standards (NAAQS). The MDAQMD is still designated Federal nonattainment for Ozone (O<sub>3</sub>) over part of its jurisdiction.<sup>2</sup> The MDAQMD is also federally nonattainment for PM<sub>10</sub> in the San Bernardino County portion of the District. For California Ambient Air Quality Standards (CAAQS) the District is nonattainment for O<sub>3</sub>, PM<sub>10</sub> district-wide and PM<sub>2.5</sub> within the FONA. Thus, the nonattainment pollutants of concern

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<sup>2</sup> The Western Mojave Desert Ozone Nonattainment Area (WMDONA) is roughly co-terminus with the boundary of Greater Los Angeles Metropolitan Statistical Area and is commonly referred to by the District as the Federal Ozone Nonattainment Area (FONA) as defined and designated in 40 CFR 81.305.

for both Federal and State purposes remain O<sub>3</sub> and its precursors NO<sub>x</sub> and VOC,<sup>3</sup> as well as PM<sup>4</sup>. The threshold levels and requirements as they currently exist are summarized in Table 1.

**Table 1  
Existing Nonattainment NSR Thresholds and Requirements**

<b>Source Type</b>	<b>Criteria</b>	<b>Requirements</b>
New Minor Facility	Proposed Emissions < 25 tpy of NO <sub>x</sub> /VOC; < 15 tpy PM <sub>10</sub> .	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day.
Minor Facility with small modification	Proposed Emissions as modified < 25 tpy of NO <sub>x</sub> /VOC; < 15 tpy of PM <sub>10</sub> .	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day.
Minor Facility with a Major Modification <i>(Note: Can't occur in the MDAQMD because a "Significant" increase as defined in 1301(DDD) would by definition make the facility a Major Facility)</i>	Proposed Emissions as modified < 25 tpy of NO <sub>x</sub> /VOC; < 15 tpy of PM <sub>10</sub> <b>and</b> increase is "Significant."	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day. Nonattainment Area: Offset all current and proposed nonattainment emissions for which facility is major at applicable ratio in 1305(C). Unclassified Area: Offset emissions over threshold at applicable ratio in 1305(C)
Minor Facility with modification that makes it Major.	Proposed Emissions as modified > 25 tpy of NO <sub>x</sub> /VOC; > 15 tpy of PM <sub>10</sub>	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day. Nonattainment Area: Offset all current and proposed nonattainment emissions for which facility is major at applicable ratio in 1305(C). Unclassified Area: Offset emissions over threshold at applicable ratio in 1305(C)

<sup>3</sup> VOC is referred to as Reactive Organic Compounds for throughout Regulation XIII (See Rule 1301(XX)) due to minor historical differences between the Federal definition as found in 40 CFR 51.100(s) and 17 Cal. Code Reg. §94508(a)(90).

<sup>4</sup> The District is State nonattainment for H<sub>2</sub>S in the Searles Valley Portion of the District however as there are so few sources in that particular area the requirements have been omitted from Table 1.

<b>Source Type</b>	<b>Criteria</b>	<b>Requirements</b>
New Major Facility	Proposed Emissions as modified > 25 tpy of NO <sub>x</sub> /VOC; > 15 tpy of PM <sub>10</sub>	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day. Offset nonattainment emissions for which facility is major at applicable ratio in 1305(C)
Major Facility with any sized modification.	Proposed Emissions as modified > 25 tpy of NO <sub>x</sub> /VOC; > 15 tpy of PM <sub>10</sub>	BACT on all new/modified equipment with proposed nonattainment emissions >25 lbs/day. Offset increased nonattainment emissions for which facility is major at applicable ratio in 1305(C)

Please note that since Regulation XIII nonattainment NSR requirements impact both Federal and State nonattainment pollutants that the requirements may be somewhat different dependent upon exactly which pollutant is emitted and the location of the new or modified Facility. This means that certain pollutants in certain locations will be subject to the provisions of nonattainment NSR as well as Federal PSD requirements if the proposed emissions are large enough. Specifically the affected pollutants/locations are:

- a. O<sub>3</sub> and its precursors (NO<sub>x</sub> and VOC) located outside the FONA.
- b. PM<sub>10</sub> in Riverside County
- c. PM<sub>2.5</sub> inside the FONA
- d. H<sub>2</sub>S in the Searles Valley Planning Area (SVPA)
- e. NO<sub>x</sub> and VOC as PM<sub>10</sub> and PM<sub>2.5</sub> precursors

## 2. Toxic Air Contaminant (TAC) NSR Thresholds

The thresholds triggering TAC analysis found in current Rule 1320 are likewise not changed by the proposed amendments to Regulation XIII. The applicability threshold for a Federal Maximum Achievable Control Technology (MACT) determination remains as follows:

- a. New/modified emissions unit which emits or has the potential to emit 10 tpy or more of a single Hazardous Air Pollutant (HAP); or
- b. New/modified emissions unit which emits or has the potential to emit 25 tpy or more of any combination of HAPs; or
- c. A new/modified facility or emissions unit which has been designated an Air toxic Area Source by USEPA.

The State portions of Rule 1320 are likewise unchanged and are dependent upon the level of risk posed by the particular pollutant emitted consistent with the requirements of the Air Toxic “Hot Spots” program (H&S Code §§44300 et seq.)

### 3. Prevention of Significant Deterioration (PSD) Thresholds

The proposed amendments to Regulation XIII, specifically the proposed changes to Rule 1302 – *Procedure* provide for an analysis to determine the applicability of the PSD program to a particular new or modified facility. Proposed new Rule 1600 adopts the PSD applicability thresholds set forth in 40 CFR 52.21 by reference. Thus the thresholds will remain the same as the current program administered by USEPA Region IX. These thresholds are as follows:<sup>5</sup>

- a. A Major PSD Facility<sup>6</sup> belonging to one of the 28 categories listed in FCAA §169 (42 U.S.C. §7479) emitting or having the potential to emit 100 tpy or more of a PSD Air Pollutant<sup>7</sup>.
- b. A Major PSD Facility not belonging to one of the 28 categories emitting or having the potential to emit 250 tpy or more of a PSD Air Pollutant.
- c. A new Facility which is a Major PSD Facility for at least one PSD Air Pollutant and has a “significant<sup>8</sup>” emissions increase for any other PSD Air Pollutant.
- d. A modified Facility which is an existing Major PSD Facility when both the potential increase in emissions **and** the resulting net emissions increase for PSD Pollutants are “significant.”

An emissions increase is “significant” as indicated in the following table:

**Table 2  
PSD Significant Emissions Thresholds<sup>9</sup>**

<b>Pollutant</b>	<b>Emissions Rate</b>	<b>Pollutant</b>	<b>Emissions Rate</b>
CO	100 tpy	Sulfuric acid mist	7 tpy
NO <sub>x</sub>	40 tpy	H <sub>2</sub> S	10 tpy
SO <sub>x</sub>	40 tpy	Total Reduced Sulfur (Including H <sub>2</sub> S)	10 tpy
PM	25 tpy	Reduced Sulfur Compounds (Including H <sub>2</sub> S)	10 tpy

<sup>5</sup> The thresholds listed here are primarily for general reference only. Specific applicability will need to be determined upon a case by case basis.

<sup>6</sup> To avoid terminology confusion with existing District rules, Rule 1600(B)(6) defines Major PSD Facility as a “Major Stationary Source” pursuant to 40 CFR 52.21(b)(1).

<sup>7</sup> To avoid terminology confusion with existing District rules, Rule 1600(B)(9) defines PSD Air Pollutant as “Regulated Air Pollutant” pursuant to 40 CFR 52.21(b)(50). In general this means any attainment air pollutant and its precursor.

<sup>8</sup> The list of “significant” amounts by pollutant may be found in 40 CFR 52.21

<sup>9</sup> See 40 CFR 52.21(b)(23) for a more complete explanations of pollutant components and amounts

Pollutant	Emissions Rate	Pollutant	Emissions Rate
PM <sub>10</sub>	15 tpy	Municipal waste combustor organics <sup>10</sup>	3.2 × 10 <sup>-6</sup> megagrams per year (3.5 × 10 <sup>-6</sup> tons per year)
PM <sub>2.5</sub> (Direct)	10 tpy	Municipal waste combustor metals <sup>11</sup>	14 megagrams per year (15 tpy)
PM <sub>2.5</sub> (NO <sub>x</sub> or SO <sub>x</sub> precursor <sup>12</sup> )	40 tpy	Municipal waste combustor acid gases <sup>13</sup>	36 megagrams per year (40 tpy)
O <sub>3</sub> (NO <sub>x</sub> or VOC precursor)	40 tpy	Municipal solid waste landfill emissions <sup>14</sup>	40 megagrams per year (50 tpy)
Pb (Lead)	0.6 tpy	Any PSD Regulated Air Pollutant within 10K of Class 1 area.	Having an impact of > 1 microgram per m <sup>3</sup> (24 hour average)
Fluorides	3 tpy		

#### 4. Notice Thresholds

The proposed amendments to Regulation XIII, specifically 1302 – *Procedure* add a new level of noticing to comply with recent USEPA guidance regarding the noticing of “minor source” permitting activities. An analysis justifying the threshold levels for such minor source notice is provided in Section (VI)(D). In addition, the proposed amendments to the noticing requirements will to upgrade the current provisions such that sources with FOPs may, after undergoing nonattainment NSR and/or PSD review for a modification, amend the FOP as an administrative permit amendment once USEPA has identified the Rule as “Enhanced NSR” for Title V purposes. The proposed amendments to Regulation XIII will require the level of notice as indicated in the following table:

**Table 3**  
**Notice Thresholds and Notice Type**

Permitting Action	Notice Type
Is a modification at a Title V Facility	Full Notice
Requires Offsets pursuant to 1303(B)	Full Notice
Occurs at a new or Modified Federal Major Facility under 1310	Full Notice
Is a new PSD Major Facility or PSD Major Modification	Full Notice
Applicant would like to run 1320 required notice concurrently to other NSR/PSD notices.	Full Notice

<sup>10</sup> Measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

<sup>11</sup> measured as particulate matter.

<sup>12</sup> Unless such NO<sub>x</sub> or SO<sub>x</sub> emissions are demonstrated not to be a PM<sub>2.5</sub> precursor pursuant to 40 CFR 52.21(b)(50).

<sup>13</sup> Measured as sulfur dioxide and hydrogen chloride

<sup>14</sup> measured as nonmethane organic compounds

<b>Permitting Action</b>	<b>Notice Type</b>
Simultaneous Emissions Reductions (SERs) are used to reduce Potential To Emit (PTE) in a “net out” transaction	Website Notice
Minor facility proposed emissions change is > 80% of the HAP threshold for Title V applicability in 1201(S)(1)(c) or (S)(2)(b).	Website Notice
Minor Facility proposed emissions change is > 80% of the Nonattainment Air Pollutant Major Facility Threshold Amount in 1303(B)	Website Notice
Minor Facility proposed emissions change is > the “Significance” level for PSD Air Pollutant <sup>15</sup>	Website Notice
Minor Facility not covered above.	Minimal Notice

Full notice requires a specified set of notice contents as set forth in Proposed amended 1302(D)(3)(a)(iii) including notice of the right to request a hearing regarding the proposed permitting action. It also requires the following actions to be taken:

- a. *Send copy of Preliminary Decision and any underlying analysis to:* USEPA, CARB, and Affected States (within 50 miles).
- b. *Publish in newspaper* (providing a 30 day comment period)
- c. *Send copy of notice to:* USEPA, CARB, Affected States (within 50 miles – includes adjoining air districts), City where located, County where located, State Land manager of potentially affected lands, Federal land manager of potentially affected lands, Indian governing body of potentially affected lands, anyone who has requested notice with Clerk of the Board.
- d. *Publish notice on website*

Website notice requires a slightly different set of notice contents and requires the following actions:

- a. *Publish notice on website*
- b. *Send a copy of notice to:* USEPA, CARB, Affected States (within 50 miles – includes adjoining air districts) and anyone who has requested notice with Clerk of the Board.

Minimal notice would require notice to anyone who has requested notice of permitting actions regarding the particular Facility with the Clerk of the Board.

Please note that the California Public Records Act requires disclosure of any non-confidential documents regarding any permitting actions upon request.

<sup>15</sup> See Table 2 for Significance amounts.

## B. EMISSIONS

The proposed amendments to Regulation XIII and Proposed New Rule 1600 are not expected to change emissions reductions from those achieved under the current nonattainment NSR program and the USEPA administered PSD program. Since these rules apply to new and modified Facilities or Emissions Units it is impossible to quantify specific emissions reductions since such reductions are entirely dependent upon the applications submitted and cannot be quantified in advance.

## C. CONTROL REQUIREMENTS

The proposed amendments to Regulation XIII and proposed new Rule 1600 clarify which new or modified Facilities and/or Emissions Units require what level of control requirements. These levels are not changed from those currently in Regulation XIII and are the same as those currently imposed by the USEPA administered PSD Program.

## D. MINOR SOURCE THRESHOLD ANALYSIS

As a part of the rule development process an analysis was performed to determine what the proposed minor source notice thresholds represent in terms of their contribution to the emissions inventory of the MDAQMD. Under the proposed notice thresholds the sources which will receive minimal notice will average about 4% of the total MDAQMD emissions inventory. Please also note that applicability of the notice requirements would be determined using estimated PTE for pollutants as set forth in applications received by the District. In general, the MDAQMD has found that actual emissions are significantly lower than estimated PTE. Therefore the MDAQMD fully expects that the actual percentage of inventory not receiving notice will be quite a bit less than this analysis indicates.

**Table 4**  
**Public Notice Threshold Analysis**  
(numerical values in tpy)

	VOC	NO <sub>x</sub> <sup>16</sup>	PM <sub>10</sub>	CO	Pb	PM <sub>2.5</sub> <sup>17</sup> (direct)	SO <sub>x</sub>
1. Proposed Minor NSR Notice Threshold.	20	20	12	100	0.6	10	40
2. Federal Nonattainment Major Source Threshold.	25	25	15 <sup>18</sup>	N/A	N/A	N/A	N/A

<sup>16</sup> As an attainment pollutant NO<sub>2</sub> would, pursuant to the proposed notice levels (See Table 3) be required to notice any increase > 40 tpy. Since NO<sub>2</sub> is a subset of NO<sub>x</sub> which has a lower threshold as a practical matter any increase of NO<sub>2</sub> > 20 tpy would be required to be noticed.

<sup>17</sup> PM<sub>2.5</sub> is State nonattainment for the FONAs and does not have or require a state major source threshold pursuant to Division 26 of the H&S Code and is not on the list in 1303(B) therefore it will be treated for purposes of notice as an attainment pollutant and be noticed if the emissions change is > the Significance threshold for PSD purposes.

<sup>18</sup> The Federal Major Source Threshold for PM<sub>10</sub> in the MDAQMD is 100 tpy however the SIP approved offset threshold is 15 tpy (as amended in 1993 down from 45 tpy pursuant to the original 1980 version).

	VOC	NO <sub>x</sub> <sup>16</sup>	PM <sub>10</sub>	CO	Pb	PM <sub>2.5</sub> <sup>17</sup> (direct)	SO <sub>x</sub>
3. Proposed Minor NSR Notice Threshold as % of Federal Major Source Threshold (Line 1/Line2).	80%	80%	80%	N/A	N/A	N/A	N/A
4. Actual emissions from Permitted Units (2013 Emissions Inventory).	3,351	18,735	9,475	3,858	5	3,997	1,573
5. Actual emissions from Permitted Actions which would require full or website notice. <sup>19</sup>	1,453	18,173	7,216	3,577	5	3,595	1,544
6. Emissions not subject to notice.	1,898	562	2,259	281	0	402	29
7. Total Emissions Inventory for 2013.	13,826	42,019	31,719	68,051	265	8,428	1,730
8. Permitted inventory as % of total inventory emissions (Line 4/Line 7).	24%	45%	30%	6%	2%	47%	91%
9. Permitted inventory not subject to notice as % of total inventory emissions (Line 6/Line 7).	14%	1%	7%	0.4%	0%	5%	2%
10. Permitted inventory subject to notice as % of total permitted emissions (Line 5/Line 4)	43%	97%	76%	93%	100%	90%	98%

#### E. FCAA 110(L) AND HEALTH & SAFETY CODE §42504 ANALYSIS

FCAA §110(l) (42 U.S.C. §7410(l)) requires that any SIP amendment which might potentially be construed as a relaxation of a requirement provide a demonstration that the proposed change will not interfere with any FCAA requirements concerning attainment or Reasonable Further Progress (RFP). In addition, California Law (H&S Code §§42500 et seq.) requires a similar analysis when amendments are proposed to a nonattainment NSR program to show that the proposed changes are not less stringent than the FCAA provisions and implementing regulations which were in existence as of December 30, 2002 (H&S Code §42504).

The proposed amendments to Regulation XIII and the adoption of new Rule 1600 do not relax any NSR related requirements. Proposed new Rule 1600 adopts the provisions of

<sup>19</sup> Includes: Actions with emissions increases > Proposed Minor NSR Notice Threshold, actions which used SER's to reduce PE, actions requiring offsets under 1303(B), Facilities subject to Rule 1310, and modifications at Facilities with FOPs.

40 CFR 52.21 by reference and thus will result in the same requirements as currently imposed under USEPA Region IX's implementation of the PSD program. Similarly the proposed amendments to Regulation XIII primarily clarify existing requirements, codify existing practices and reorganize the procedures to allow the issuance of PSD permits in conjunction with nonattainment NSR permits. The proposed amended noticing requirements will result in more permits being subject to public notice than under the current regulation. No changes have been made to relax any of the requirements listed in H&S Code 42504(b). For explanation of the changes in general please see Section (VI)(F) and for specifics regarding particular amendments please see the *[bracketed italicized]* notes in Appendix A.

## F. PROPOSED RULE SUMMARY

This section gives a brief overview of the proposed amendments to Regulation XIII and adoption of new Rule 1600. For more specific information regarding proposed changes please see the *[bracketed italicized]* notes in Appendix A.

### 1. Proposed New Rule 1600

Rule 1600(A)(1) – This section sets forth the purposed of the proposed new rule specifically that the rule is intended to allow for the review and issuance of PSD permits and to incorporate the provisions of 40 CFR 52.21 by reference.

Rule 1600(A)(2) – This section sets forth the applicability of the PSD program primarily by reference. It also contains exclusions for pollutants which are covered under the District's nonattainment NSR permitting requirements, namely nonattainment pollutants.

Please note: portions of the District are Federal nonattainment for O<sub>3</sub> and PM<sub>10</sub> thus the major pollutants excluded from applicability are NO<sub>x</sub> and VOC within the FONA and PM<sub>10</sub> districtwide except Riverside County. It must be noted, however, that certain PSD pollutant precursors also happen to be precursors for certain Federal Nonattainment Pollutants. Specifically NO<sub>x</sub> is an O<sub>3</sub> precursor but also a PM<sub>10</sub> and PM<sub>2.5</sub> precursor. Thus, NO<sub>x</sub> may be subject to both a nonattainment NSR analysis and a PSD analysis.

Rule 1600(A)(3) – This section contains the incorporation by reference of 40 CFR 52.21 with certain exclusions. The exclusions were negotiated with USEPA during the development of the California Air Pollution Control Officer's Association (CAPCOA) Model PSD Rule. Language is also included that allows the MDAQMD specific terminology to be used.

Rule 1600(B) – This section provides that the definitions contained in 52.21(b) will apply with minor exceptions and changes in terminology specific to the MDAQMD. Certain definitions (Administrator, APCO and District) are provided to allow delegation of certain functions in the PSD permitting process to the District. Other definitions (ATC, PTO, Permit Unit and PSD Document) are included to conform the PSD issuance process terminology with existing

MDAQMD permit issuance procedures. A variety of definitions (Major PSD Facility, Major PSD Modification, PSD Air Pollutant, and PSD BACT) are included to avoid confusion between PSD program items and nonattainment NSR program items as the definitions and calculations involved for each program are occasionally different.

Rule 1600(C) – This section sets forth the requirements mandating that Facilities to which the rule is applicable are required to obtain a PSD permit.

Rule 1600(D) – This section cross references general procedural items to District Rule 1302. This allows a common permit issuance procedure to be used across all preconstruction review activities. It also provides a cross reference to District Rule 1306 for power plants which are subject to licensing by the California Energy Commission (CEC). Procedures which are specific to the PSD program are set forth and cross references allowing PSD permit issuance to utilize the permit issuance procedures provided by District Rule 1302 are provided.

Please Note: In the MDAQMD anything that emits air contaminants is required to get a permit pursuant to District Rules 201 and 203 unless the particular emissions unit is exempt under District Rule 219. Any time an emissions unit is added or modified an application is required for an Authority to Construct (ATC). All applications, regardless of Permit Unit size, are subject to the procedural requirements of Rule 1302. Use of the procedures in 1302 ensures that the initial completeness criteria and applicability of certain requirements are determined properly and that nothing is missed. If the resultant permit action is too small to trigger major source (Nonattainment NSR Major Facility, PSD Major Facility or uses SER's to reduce PE below that level) then the permit acquires BACT and/or Toxic NSR conditions if necessary and “drops out” to a simple permit issuance under Reg. II. Otherwise, the permitting will issue using the 1302 procedures .

## 2. Proposed Amendments to Rule 1300

Rule 1300(A)(1) – The proposed amendments correct a typographical error in subsection (b) and provide new subsection (e) to allow the PSD analysis and issuance requirements to be added into District Rule 1302.

Rule 1300(C)(1)(a) – A change of cross reference from “Rule” meaning a single Rule to “Regulation” meaning a numbered chapter containing multiple rules is provided for clarity.

Rule 1300(D)(1)(a) – Correction of a typographical error is provided.

Rule 1300(D)(2) – The proposed amendment provides a cross reference to proposed new Rule 1600

### 3. Proposed Amendments to Rule 1302

In general Rule 1302 is structured to apply to all application for new or modified Facilities regardless of size. It is intended to insure that all analysis and procedural elements are performed and not inadvertently missed by either the applicant or the District. In many ways this rule is a verbal representation of a flow chart and while it contains procedural mandates it is not intended to set forth the specific requirements including but not limited to BACT, Offsets, or MACT limits which may apply to a particular permitting action. The specific requirements are generally provided in other rules which are cross referenced throughout. Please see Appendix E for a detailed flow chart representation of the 1302 procedural process.

Rule 1302(A) – This provision has been revised for clarity at USEPA’s suggestion.

Rule 1302(B)(1) – The amendments to this section are designed to clarify exactly what information is required in an application for a specific type of new or modified facility. Historically any information not specifically listed in the current rule formulation was requested as needed under the existing “catch all” provision. Additional specificity regarding general application elements has been placed in subsection (B)(1)(a)(i) along with a requirement for a PSD applicability analysis. The requirements for Facilities requiring offsets have been streamlined and grouped into subsection (B)(1)(a)(ii) with requirements for Federal Major Facility analysis required pursuant to Rule 1310 since the thresholds and information required are almost identical. Subsection (B)(1)(a)(iii) has been modified and streamlined to specify requirements specific to Facilities which may affect a Mandated Class 1 Federal Area (specified parks and wilderness areas). Likewise subsection (B)(1)(a)(iv) has been modified to indicate specific information required to issue a Plantwide Applicability Limit if such is requested by the applicant. Subsection (B)(1)(a)(v) has been added to require specific application information for those Facilities subject to the PSD provisions of Rule 1600. The completeness determination deadline found in subsection (B)(1)(b) remains the same.

Rule 1302(B)(2) – This subsection has been reorganized to improve flow, add cross references to PSD provisions and correct cross references.

Rule 1302(B)(3) – A typographical error has been corrected here and a cross reference provided pursuant to USEPA suggestion.

Rule 1302(B)(4) – A punctuation error is proposed for correction.

Rule 1302(C) – This section is the portion of the rule containing the majority of the “flow chart” elements. It has been extensively modified and reorganized to create a series of “if/then” requirements to insure that all analysis applicable to a particular proposed permitting activity are performed and that particular

requirements are included in the resultant permits. Please see the *[bracketed italicized]* notes in Appendix A for justifications of specific modifications, movements and other explanations. Please see the flow chart provided in Appendix E for a visual representation as to how this section will work in practice.

Rule 1302(D) – This section sets forth the procedural issuance process. Subsection (D)(1) has a minor terminology change and an added provision allowing PSD permits to be issued in conjunction with nonattainment NSR permitting actions. Subsection (D)(2) is modified to clarify and specify the agencies which specifically need to be provided copies of the preliminary decision and underlying documentation as well as what to do when such agencies provide comments. In practice the District has been providing such document to the specified agencies. Subsection (D)(3) has been modified to conform with the noticing requirements for the PSD program as well as specific requirements from the nonattainment NSR program and the Title V FOP program. The specific underlying provisions for each requirement may be found in the *[bracketed italicized]* notes in Appendix A. Subsections (D)(4) and (5) are clarified by providing appropriate cross references. In addition provisions are added to cross reference PSD program requirements. Subsection (D)(6) remains primarily unchanged.

#### 4. Proposed Amendments to Rule 1320

The proposed amendments to Rule 1320 primarily correct typographical errors and conform citation cross references to the proposed changed in Rule 1302.

### E. SIP HISTORY

#### 1. SIP History.

##### a. SIP in the San Bernardino County Portion of MDAQMD

The initial version of Regulation XIII was adopted on July 21, 1980 by the San Bernardino County Air Pollution Control District (SBCAPCD) and consisted of Rules 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311 and 1313. It was submitted as a SIP revision and approved by USEPA on June 9, 1982 (47 FR 25013; 40 CFR 52.220(c)(87)(iv)(A); See also 40 CFR 52.232(a)(13)(i)(A)).

On July 1, 1993 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.

On October 27, 1993 the Governing Board amended various rules in Regulation XIII. This version was submitted as a SIP revision but no action was taken by USEPA. On March 25, 1996 the MDAQMD completely reorganized the regulation such that it now consisted of Rules 1300, 1301, 1302, 1303, 1304, 1305 and 1306. This version was submitted and approved by USEPA on November 13, 1996 (61 FR 58113; 40 CFR 52.220(c)(239)(i)(A)). The Governing Board adopted further amendments and added an additional rule 1320 – *New Source Review for Toxic Air Contaminants* on September 24, 2001. These amendments were submitted as a SIP revision but no action was taken by USEPA. On August 28, 2006 the MDAQMD again amended various rules in Regulation XIII this time adding Rule 1310 – *Federal Major Facilities and Federal Major Modifications*. Once again these amendments were submitted as a SIP revision but no action was taken by USEPA.

Since State Implementation Plan (SIP) revisions in California are adopted by USEPA as effective in areas which happen to be defined by both air basin designations and the jurisdictional boundaries of local air districts within those air basins, the MDAQMD “inherited” the SBCAPCD SIP which was in effect for what is now called the San Bernardino County Portion of Mojave Desert Air Basin (MDAB). Therefore the March 25, 1996 version of Regulation XIII is the version contained in the SIP for the San Bernardino County portion of the MDAB.

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 South Coast Air Quality Management District (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 SCAQMD initial version of Regulation XIII was adopted on October 5, 1979 and consisted of Rules 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1310, 1311, 1312 and 1313. SCAQMD thereafter amended various portions of Regulation XIII on March 7, 1980 and July 11, 1980. These versions were submitted as a SIP revision and approved by USEPA on January 21, 1981 (46 FR 5965; 40 CFR 52.220(c)(68)(i) and (70)(i)(A)). Additional approval was granted on June 9, 1982 (47 FR 25013; 40 CFR 52.220(c)(87)(v)(A)). On September 10, 1982 Rules 1309 and 1309.1 regarding offset banking were added to the regulation. SCAQMD continued to amend Regulation XIII in whole and in part over the years. Action was taken on July 12, 1985, January 10, 1986, August 1, 1986, December 2, 1988, June 28, 1990, May 3, 1991, June 5, 1992 and September 11, 1992. These amendments were presumably submitted as SIP revisions but USEPA had taken no action as of July 1, 1994 when the Blythe/Palo Verde Valley area of the MDAQMD.

The March 25, 1996 reorganization of Regulation XIII applied in the Blythe/Palo Verde Valley of the MDAQMD. The reorganized regulation was submitted and approved by USEPA on November 13, 1996 (61 FR 58113; 40 CFR 52.220(c)(239)(i)(A)) and thus superseded the prior SCAQMD SIP version for the area. The MDAQMD Governing Board adopted further amendments and added an additional rule 1320 – *New Source Review for Toxic Air Contaminants* on September 24, 2001. These amendments were submitted as a SIP revision but no action was taken by USEPA. On August 28, 2006 the MDAQMD again amended various rules in Regulation XIII this time adding Rule 1310 – *Federal Major Facilities and Federal Major Modifications*. Once again these amendments were submitted as a SIP revision but no action was taken by USEPA. Therefore, the version in the SIP for the Blythe/Palo Verde Valley area is the same as the version in effect in the San Bernardino County portion of the MDAB.

Since Proposed Rule 1600 is new it does not have a SIP history for either San Bernardino or Riverside County.

## 2. SIP Analysis.

The District will request CARB to submit the proposed amendments to Regulation XIII and proposed new Rule 1600 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. This submission is necessary to update the

nonattainment NSR program, allow USEPA to delegate the PSD program to the MDAQMD and to allow USEPA to designate Regulation XIII as “enhanced NSR” for purposes of the Title V program.

Since there are previously existing SIP rules for this category the District will request that they be superseded. In order to replace existing SIP rules the District is required to show that the proposed amendments are not less stringent than the provisions currently in the SIP. The proposed amendments and new rule add additional provisions to the program, clarify existing provisions, codify current practices and in general strengthen the entire regulation. The addition of enhanced noticing requirements will result in more Facilities, even those not rising to the emissions level of a Major Source, to be subject to public review and comment. For explanation of the changes in general please see Section (VI)(F) and for specifics regarding particular amendments please see the *[bracketed italicized]* notes in Appendix A.

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**Appendix “A”**  
**Proposed Amendments to Regulation XIII**  
**(Rules 1300, 1302, and 1320)**  
**and Proposed New Rule 1600 Iterated Version(s)**

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.

For a new rule all text will be normal. *[Bracketed italicized text]* is explanatory material that is not part of the proposed language and will be removed upon adoption

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## Rule 1600

### Prevention of Significant Deterioration (PSD)

#### (A) General

##### (1) Purpose

(a) The purpose of the Rule is to:

- (i) Set forth the requirements for preconstruction review of all new Major PSD Facilities and Major PSD Modifications which emit or have the potential to emit a PSD Air Pollutant; and *[CAPCOA Model PSD Rule 10/25/11 – Purpose: sentence 1. Revised to avoid conflict with NSR terms.]*
- (ii) Incorporate applicable provisions of the Federal Prevention of Significant Deterioration (PSD) Rule as found in 40 CFR 52.21 by reference; and *[CAPCOA Model PSD Rule 10/25/11 – Purpose sentence 3]*
- (iii) Ensure that the construction or modification of Facilities subject to this rule comply with the provisions of 40 CFR 52.21 as incorporated by reference in this rule. *[Implied by CAPCOA Model PSD Rule]*

##### (2) Applicability

- (a) This rule is applicable to any Facility and the owner/operator of any Facility subject to any requirement pursuant to 40 CFR 52.21 as incorporated by reference in this rule. *[CAPCOA Model PSD Rule 10/25/11 – Applicability. Per USEPA note of 3/31/16 incorporation by reference officially placed in (A)(3)(a).]*
- (b) The provisions of this rule apply to emissions or potential emissions PSD Air Pollutants and their precursors as defined in subsection (B) below. *[40 CFR 52.21(a)(2)(1); (b)(50). PSD Air pollutants include NAAQS for which district is attainment, pollutants subject to NSPS standards, Class I and II pollutants under FCAA 602, and those subject to regulation under 40 CFR 52.21(b)(49) (currently GHG's).]*
- (c) The provisions of this rule, specifically 40 CFR 52.21(j)-(r) as incorporated by reference below shall not apply to a Major PSD facility or Major PSD Modification with respect to a particular pollutant if the Major PSD Facility or Major PSD Modification is located in an area designated as nonattainment pursuant to 40 CFR 81.305 for the particular pollutant. *[40 CFR 52.21(a)(2)(i). Pollutant specificity added for clarity per USEPA comment. Currently portions of the District are Federal nonattainment for Ozone (NO<sub>x</sub> and VOC) and PM<sub>10</sub>. Please see staff report for notations]*

*regarding pollutants which may trigger review under both Reg. XIII and Rule 1600.]*

**(3) Incorporation by Reference**

- (a) The requirements and provisions contained in 40 CFR 52.21 in effect on July 1, 2015 are incorporated herein by reference with the exception of the following: *[Per USEPA note of 3/31/16 date reference should be July 1 prior to adoption date if there have been no revisions in the interim.]*
- (i) 40 CFR 52.21(a)(1), (b)(55-58), (f), (g), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc). *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference]*
  - (ii) The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) shall read as follows: the public notice and comment provisions contained in subsection (D)(2)(c) of this rule. *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference 2.ii.]*
  - (iii) The term “Best Available Control Technology” or “BACT” as defined in 40 CFR 52.21(b)(12) shall read “PSD Best Available Control Technology” or “PSD BACT.” *[Allows use of new term and distinguishes it from term used under the District’s nonattainment NSR Program as contained in Regulation XIII]*
  - (iv) The term “Major Modification” as defined in 40 CFR 52.21(b)(2) shall read “Major PSD Modification.” *[Allows use of new term and distinguishes it from term used under the District’s nonattainment NSR Program as contained in Regulation XIII]*
  - (v) The term “Major Stationary Source” as defined in 40 CFR 52.21(b)(1) shall read “Major PSD Facility.” *[Allows use of new term and distinguishes it from term used under the District’s nonattainment NSR Program as contained in Regulation XIII]*
  - (vi) The term “Regulated NSR Pollutant” as defined in 40 CFR 52.21(b)(50) shall read “PSD Air Pollutant.” *[Allows use of new term and distinguishes it from term used under the District’s nonattainment NSR Program as contained in Regulation XIII]*
  - (vii) The term “Stationary Source” as defined in 40 CFR 52.21(b)(5) shall read “Facility.” *[Allows use of new term and distinguishes it from term used under the District’s nonattainment NSR Program as contained in Regulation XIII]*

**(B) Definitions**

For the purpose of this rule the definitions contained in 40 CFR 52.21(b), excluding (b)(55), (b)(56), (b)(57) and (b)(58), shall apply unless the term is otherwise defined herein. *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference]*

- (1) Administrator – Either the administrator of USEPA or the Air Pollution Control Officer as follows: *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference 2.i.]*
  - (a) For the provisions of 40 CFR 52.21(b)(17), (b)(37), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2), and (p)(2), the administrator of USEPA; *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference 2.i.a.]*
  - (b) For all other provisions of 40 CFR 52.21 as incorporated in this rule by reference the Air Pollution Control Officer. *[CAPCOA Model PSD Rule 10/25/11 – Incorporation by Reference 2.i.b.]*
- (2) Air Pollution Control Officer (APCO) – The person appointed to the position of Air Pollution Control Officer of the District pursuant to the provisions of California Health & Safety Code §40750, and his or her designee. *[Derived from Rule 1301(E)]*
- (3) Authority to Construct Permit (ATC) - A District permit required pursuant to the provisions of District Rule 201 which must be obtained prior to the building, erecting, installation, alteration or replacement of any Permit Unit. Such permit may act as a temporary PTO pursuant to the provisions of District Rule 202. *[Derived from District Rule 1301(I)]*
- (4) District – The Mojave Desert Air Quality Management District the geographical area of which is described in District Rule 103. *[Derived from Rule 1301(S)]*
- (5) Major PSD Facility – A Major Stationary Source as defined in 40 CFR 52.21(b)(1) for a PSD Air Pollutant. *[Added to avoid confusion with District Regulation XIII terminology. Allows use of term in Rule.]*
- (6) Major PSD Modification – A Major Modification as defined in 40 CFR 52.21(b)(2) for an PSD Air Pollutant. *[Added to avoid confusion with District Regulation XIII terminology. Allows use of term in Rule.]*
- (7) Permit To Operate (PTO) - A District permit required pursuant to the provisions of District Rule 203 which must be obtained prior to operation of a Permit Unit. An ATC may function as a temporary PTO pursuant to the provisions of District Rule 202. *[Derived from District Rule 1301(RR)]*
- (8) Permit Unit – Any Emissions Unit which is required to have a PTO pursuant to the provisions of District Rule 203. *[Derived from District Rule 1301(SS)]*
- (9) PSD Air Pollutant – A Regulated NSR Pollutant as defined in 40 CFR 52.21(b)(50). . *[Allows use of term in Rule. See note in applicability section regarding application of both District Regulation XIII and this rule to some pollutants and their precursors.]*

- (10) PSD Best Available Control Technology (PSD BACT) – Best Available Control Technology as defined in 40 CFR 52.21(b)(12). *[Added to avoid confusion with District Regulation XIII terminology. Allows use of term in Rule.]*
- (11) PSD Document – A document issued by the APCO pursuant to the provisions of this Rule including but not limited to: all analysis relating to the new Major PSD Facility or Facility with Major PSD Modification; notices; any engineering analysis or other necessary analysis; and proposed conditions for any required ATC(s) or PTO(s). *[Added to avoid terminology confusion per USEPA’s request. Reference to “offset package” removed per USEPA note of 3/31/16. Derived from District Rule 1301(LL)]*

(C) Requirements

- (1) An owner/operator of any new Major PSD Facility, a Facility with a Major PSD Modification, or a Major PSD Facility requesting or modifying a Plantwide Applicability Limitation (PAL) shall obtain a Prevention of Significant Deterioration (PSD) permit pursuant to this rule before beginning actual construction of such Facility or modification. *[CAPCOA Model PSD Rule 10/25/11 –Requirements 1.]*
- (2) Notwithstanding the provisions of any other District Rule or Regulation, the APCO shall require compliance with this rule prior to issuing a PSD permit as required by Section 165 of the Federal Clean Air Act (42 USC §7475). *[CAPCOA Model PSD Rule 10/25/11 – Requirements 2.]*
- (3) Greenhouse gas emissions shall not be subject to the requirements of subsections (k) or (m) of 40 CFR Part 52.21. *[CAPCOA Model PSD Rule 10/25/11 – Requirements 4.]*
- (4) An owner/operator of a Major PSD Facility seeking to obtain a PAL shall also comply with the provisions of 40 CFR 52.21 (aa)(1-15). *[Added pursuant to USEPA note of 3/31/16]*

(D) Procedure *[Please see staff report section (VI)(F) for explanation of the interconnected nature of the procedural process for nonattainment NSR, PSD and Toxic NSR actions.]*

- (1) General
  - (a) The provisions of District Rule 1302 shall apply unless otherwise specified herein. *[General cross reference to 1302 procedure.]*
  - (b) For Electrical Energy Generating Facilities (EEGFs) as defined in District Rule 1301(T) the provisions of this Rule shall apply in addition to the provisions of District Rule 1306. *[Allows PSD to be rolled into CEC licensing procedure. Additive language changed per USEPA request.]*

(2) Analysis

- (a) After the application has been determined to be complete pursuant to the provisions of District Rule 1302(B)(1)(a) and all appropriate notifications required pursuant to District Rule 1302 (B)(2)(a) and (B)(2)(c) have been sent the APCO shall: *[Provides application and notification procedure reference to Reg XIII provisions. Note: These actions occur after PSD applicability has been determined and is the analysis required by 1302(C)(5)]*
- (i) Analyze the information to determine if the application complies with the provisions of 40 CFR 52.21 as adopted by reference herein; *[Allows for the review of air quality impact analysis, increment consumption analysis, soil/vegetation/visibility analysis and Class I area impacts if any/all are necessary.]*
- (ii) Make a PSD BACT determination pursuant to the provisions of 40 CFR 52.21(j); and *[Note: Reminds applicants that the BACT determination information proposed may not end up being BACT that actually gets applied to the equipment.]*
- (b) The APCO shall not perform any analysis unless all applicable fees, including but not limited to Project Evaluation Fees for Complex Sources, as set forth in District Rule 301, have been paid. *[Derived from Rule 1302(B)(4). Rule 301 has been amended to allow use of the “complex source analysis fee” to fund the issuance of the PSD analysis.]*
- (c) Such PSD analysis may be conducted concurrently with any analysis required pursuant to District Rules 1302, 1306, 1310, and/or 1320. *[Included to allow consolidated document to be produced]*

(3) Permit Issuance Procedure

- (a) Preliminary Decision
- (i) After the analysis has been completed the APCO shall issue a preliminary decision as to whether the PSD Document should be approved, conditionally approved or disapproved and whether the ATC(s) or PTO(s) should be issued to the Major PSD Facility or Major PSD Modification. *[Derived from District Rule 1302(D)(1)(a)]*
- (ii) The preliminary decision shall include an analysis of the approval, conditional approval or disapproval and the draft PSD Document. *[Derived from District Rule 1302(D)(1)(b)]*
- (iii) The preliminary decision and draft PSD Document may be combined with any engineering analysis or draft NSR Document produced pursuant to the provisions of District Rule 1302. *[Included to allow consolidation of documents.]*

- (b) USEPA and Federal Land Manager Review.
  - (i) If USEPA and the Federal Land Manager were notified pursuant to the provisions of District Rule 1302 (B)(2)(c-d) then the APCO shall, upon completion of the preliminary decision and concurrently with the publication required pursuant to subsection (D)(2)(c) below, send a copy of the preliminary decision and any underlying analysis to USEPA and any Federal Land Manager so notified. *[Derived from District Rule 1302(D)(2)]*
  - (ii) The provisions of District Rule 1302 (D)(2) shall apply to the review by USEPA and the Federal Land Manager. *[Provides 30 day review period and notes how to handle comments.]*
  - (iii) This review may be combined with any other review required pursuant to District rule 1302. *[Included to allow consolidation of documents.]*
- (c) Public Review, Comment and Availability of Documents
  - (i) Upon completion of the preliminary decision the APCO shall provide for public review and comment in the same manner and using the same procedure as set forth in District Rule 1302(D)(3). *[Rule 1302(D)(3) will be modified to include all items required pursuant to 40 CFR 51.166(p)(1-3) and (q)]*
  - (ii) Such public notice and comment may be combined with any other public notice and comment required pursuant to District Rule 1302. *[Included to allow consolidation of documents]*
- (d) Public Hearing
  - (i) If any person requests a public hearing pursuant to the provisions of District Rule 1302(D)(3)(d) the APCO shall hold a public hearing and notify the appropriate agencies and the general public using the procedures set forth in District Rule 1302(D)(3)(a). *[Derived from 40 CFR 51.166(q)(2)(v)]*
- (e) Final Action
  - (i) Within one (1) year of the notification that the application has been deemed complete pursuant to District Rule 1302(B)(2), or after such longer time as both the applicant and the APCO may agree in writing the APCO shall take final action to issue, issue with conditions or decline to issue the final PSD Document. *[Derived from District Rule 1302(D)(4)(b)]*
  - (ii) The APCO shall produce a final PSD Document after the conclusion of the comment period; the public hearing, if any is held; and upon consideration of comments received. *[Derived from District Rule 1302(D)(4)(a)]*

- (iii) The APCO shall provide written notice of the final action to the applicant and USEPA. *[Derived from District Rule 1302(D)(4)(c)]*
  - (iv) If substantive changes have been made to the preliminary decision or PSD Document after the opening of the public comment period the APCO shall publish a notice of the final PSD determination pursuant to the provisions of District Rule 1302(D)(3)(a).  
*[Derived from District Rule 1302(D)(4)(d)]*
  - (v) If substantive changes are made to the preliminary decision or PSD Document which are substantial enough to require changes to the underlying requirements or which result in a less stringent BACT determination then the APCO shall reissue and renotice the preliminary decision and draft PSD document pursuant to the provisions of District Rule 1302(D).
  - (vi) The final PSD Document and all supporting documentation shall remain available for public inspection at the offices of the District.  
*[Derived from District Rule 1302(D)(4)(e)]*
  - (vii) The final PSD Document may be combined with a final NSR Document produced pursuant to District Rule 1302(D)(4).  
*[Included to allow consolidation of documents.]*
- (e) Issuance of ATC(s) and or PTO(s)
- (i) In conjunction with the final action on the PSD document the APCO shall issue ATC(s), or PTO(s) if applicable, for any Permit Units associated with a new Major PSD Facility and/or any Permit Units modified as a part of the Major PSD Modification
  - (ii) The ATC(s) or PTO(s) as issued shall contain all conditions regarding construction, operation and other matters as set forth in the PSD document. *[Derived from CAPCOA Model PSD Rule 10/25/11 – Requirements 5. Note: Regulation XIII contains rule 1306 which sets forth the permit issuance process for CEC licensing review. See also (D)(1)(b) above]*

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## Rule 1300 General

### (A) Purpose

- (1) The purpose of this Regulation is to:
  - (a) Set forth the requirements for the preconstruction review of all new or modified Facilities.
  - (b) Ensure that the ~~Construction~~, Construction or Modification of Facilities subject to this Regulation does not interfere with the attainment and maintenance of Ambient Air Quality Standards.
  - (c) Ensure that there is no net increase in the emissions of any Nonattainment Air Pollutants from new or modified Major Facilities which emit or have the Potential to Emit any Nonattainment Air Pollutant in an amount greater than or equal to the amounts set forth in District Rule 1303(B)(1).
  - (d) Ensure that the Construction or Modification of Facilities subject to this Regulation comply with the preconstruction review requirements for Toxic Air Contaminants set forth in District Rule 1320.
  - (e) Ensure that the Construction or Modification of Facilities subject to this Regulation or District Regulation XVI – Prevention of Significant Deterioration comply with the preconstruction review requirements set forth in District Rule 1600. [Added to allow addition of PSD procedures to Rule 1302.]

### (B) Applicability

- (1) The provisions of this Regulation shall apply to:
  - (a) Any new or modified Facility or Emissions Unit which requires a permit pursuant to the provisions of District Regulation II.

### (C) Exemption

- (1) Change of Ownership
  - (a) Any Facility which is a continuing operation, shall be exempt from the provisions of this ~~Rule~~ Regulation when:

- (i) A new permit to operate is required solely because of permit renewal or change in ownership; and
- (ii) There is no Modification or change in operating conditions for the Facility.

(D) Interaction with Other Federal, State and District Requirements

(1) Interaction with District Rules

(a) Supersession of Various District Rules

- (i) This Regulation shall supersede District Rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3 for all applications for ATC(s) which have not been accepted as complete prior to July 21, 1980 and for the issuance of PTO(s) which received ATC(s) under such rules prior to July 21, 1980. *[This statement will remain until USEPA takes official action to remove the listed rules from the SIP.]*

(b) Issuance of Authority to Construct Permits and Permits to Operate

- (i) ATC(s) and PTO(s) issued pursuant to this Regulation shall also comply with the applicable provisions of District Regulation II.

(2) Prevention of Significant Deterioration (PSD)

- (a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit located in an area designated by USEPA as attainment or unclassified for a Regulated Air Pollutant from complying with the applicable provisions of Title I, Part C of the Federal Clean Air Act (42 U.S.C. §§7470-7492, Prevention of Significant Deterioration of Air Quality), **and** the regulations promulgated thereunder **and District Rule 1600**. *[Provides cross reference to PSD Rule.]*

(3) Other Federal Requirements

- (a) Nothing in this Regulation shall be construed to exempt a Facility or an Emissions Unit from complying with all other applicable Federal Requirements including, but not limited to, the following:
  - (i) Any standard or other requirement contained in the applicable implementation plan for the District, and any amendments thereto, approved or promulgated pursuant to the provisions of Title I of the Federal Clean Air Act (42 U.S.C. §§7401-7515).
  - (ii) Any standard or other requirement under 42 U.S.C. §7411, Standards of Performance for New Stationary Sources (Federal Clean Act §111); 42 U.S.C. §7412, Hazardous Air Pollutants (Federal Clean Air Act §112) or the regulations promulgated thereunder.

- (iii) Any standard or other requirement under Title IV of the Federal Clean Air Act (42 U.S.C. §§7651-7651o, Acid Rain) or the regulations promulgated thereunder.
- (iv) Any standard or other requirement under Title V of the Federal Clean Air Act (42 U.S.C. §§7661a - 7661f, Permits), the regulations promulgated or the District program approved thereunder.
- (v) Any standard or other requirement of the regulations promulgated under Title VI of the Federal Clean Air Act (42 U.S.C. §§7671-7671q, Stratospheric Ozone Protection) or the regulations promulgated thereunder.
- (vi) Any national Ambient Air Quality Standard or increment or visibility requirement promulgated pursuant to part C of Title I of the Federal Clean Air Act (42 U.S.C. §7401-7515).

(E) Violations

- (1) Failure to comply with the provisions of this Regulation shall result in enforcement action under applicable provisions of Division 26, Part 4, Chapter 4 of the California Health and Safety Code (commencing with §42300) and or applicable provisions of the Federal Clean Air Act (42 U.S.C. §§ 7401 et.seq.)

~~{SIP: Submitted as amended 09/24/01 on \_\_\_\_\_; Approved 11/13/96, 61 FR 58133, 40 CFR 52.220(e)(239)(i)(A)(1); Submitted rescission of 10/27/93 on 03/29/94}~~  
See SIP Table at: <http://www.mdaqmd.ca.gov/Modules/ShowDocument.aspx?documentid=45>

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## Rule 1302 Procedure

### (A) Applicability

(1) This rule shall apply to all new or modified Facilities

(a) \_\_\_\_\_, including EEGFs as defined in District Rule 1301(T) shall also be subject, pursuant to the provisions of District Rule 1306. [Revised for clarity per USEPA comment.]

### (B) Applications

(1) Initial Analysis

(a) Any application for an ATC or modification to a PTO, submitted pursuant to the procedures of District Regulation II, shall be analyzed to determine if such application is complete. An application shall be deemed complete when it contains the following, as applicable:

(i) General Requirements

(i)a. An application is complete when it contains enough information to allow all the applicable analysis and calculations required under this Regulation to be made including but not limited to identification of all new or modified Emissions Units, the amount of potential emissions from such new or modified Emissions Units, information sufficient to determine all rules, regulations or other requirements applicable to such Emissions Units, and information regarding air quality modeling protocols and results. [Pursuant to USEPA note of 3/31/16 additional specification of required information provided. See 40 CFR 51.160(c-f)]

(ii)b. Comprehensive Emission Inventory

a. All Facilities shall submit a Comprehensive Emissions Inventory. in conjunction with the application.

b. If a Facility has a current, approved Comprehensive Emissions Inventory on file with the District such Facility may, upon written request and approval of the APCO, update the Comprehensive Emission Inventory to reflect the addition, deletion or modification of all Emissions Units affected by the application.

- ~~e. No application may be determined to be complete without a Comprehensive Emissions Inventory or Comprehensive Emission Inventory update.~~
- ~~c. A District Rule 1600 applicability analysis sufficient to determine whether the Facility or Modification is or is not a Major PSD or a Major PSD Modification as defined in District Rule 1600(B) using the procedures set forth in 40 CFR 52.21(a)(2). [Sets forth requirement to include PSD applicability analysis in application. See also (B)(1)(a)(ii)a.3.]~~
- ~~d. Any other information specifically requested by the District. [Catch all provision in case additional information is needed.]~~
- (ii) Requirements for Facilities Requiring Offsets
- (iii)a. For all new and modified Facilities requiring offsets pursuant to district Rule 1303(B):
  - ~~1. An Aalternative Ssiting analysis a.—For Facilities and Modifications requiring offsets pursuant to District Rule 1303(B) a complete application shall includeing an analysis of alternative sites, sizes and production processes pursuant to 42 U.S.C. §7503(a)(5) (Federal Clean Air Act §173(a)(5)). Such analysis shall be functionally equivalent to that required pursuant to Division 13 of the California Public Resources Code (commencing with section 21000). b.—The provisions of (B)(1)(a)(iii)a. above shall not apply if the Facility or Modification has been determined to not be a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C)(6) and (7) or the Facility has previously applied for and received a valid Plantwide Applicability Limit (PAL) pursuant to the provisions of District Rule 1310(F). [Typographical error correction and language standardization. Exemption language moved to subsection 4. below.]~~
  - (iv)2. A Sstatewide Ccompliance Ccertification
    - ~~a. For Facilities and Modifications which require offsets pursuant to District Rule 1303(B) a complete application shall include a certification, stating that all Facilities which are under the control of the same person (or persons under common control) in the State of California are in compliance with all applicable emissions limitations and standards under the Federal Clean Air Act and the applicable implementation plan for the air district in which ~~at~~the other Facilities are located. [Renumbered to standardize outline format.]~~

3. A District Rule 1310 applicability analysis sufficient to show that the Facility or Modification is or is not a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C). [Relocated from Section (B)(1)(a)(vi)a. Renumbered to standardize outline format. Language adjusted for clarity per USEPA comment of 3/31/16 ]
4. The requirements of subsections (B)(1)(a)(ii)a.1. and .2 shall not apply if the Facility or Modification has been determined to not be a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C)(6) and (7) or the Facility has previously applied for and received a valid Plantwide Applicability Limit (PAL) pursuant to the provisions of District Rule 1310(F). [Per USEPA note of 3/31/16 Alternative Siting and Compliance Certification not required for non-federal major facilities. However, please note that such analysis may still be required pursuant to CEQA]
- (viii) Mandated Class I Federal Area Visibility Protection Analysis [Modified to conform term with 40 CFR 51.301]
- a. An application for a Federal Major Facility or a Facility with a Federal Major Modification as defined in District Rule 1310(C)(6) and (7) which is located within 60 miles of a Class I Area, may have an impact upon visibility in any Mandatory Class I Federal Area, as defined in 40 CFR 51.301(e), shall include in its application an analysis of any anticipated impacts on visibility within that Mandated Class I Federal Area. Such analysis shall include, but is not limited to, an analysis of the factors found in 40 CFR 51.3017(ac). [Modified to reflect USEPA Memo of 10/19/92 J. Seitz to USEPA Regions. Citation and language correction per USEPA note of 3/31/16 to conform terms with 40 CFR 51.301.]
- (vi)(iv) District Rule 1310 Applicability Plantwide Applicability Limit (PAL) Analysis
- a. ~~For Facilities and Modifications which requires offsets pursuant to District Rule 1303(B) a complete application may include an analysis sufficient to show that the Facility or Modification is not a Federal Major Facility or a Federal Major Modification as defined in District Rule 1310(C)(6) and (7). [Moved to Section (B)(1)(a)(ii)c.]~~
- ba. For a Facility requesting a PAL pursuant to District Rule 1310(F) a complete application shall include an analysis analysis sufficient to justify the classification of the Facility as a Federal Major Facility as defined in District Rule 1310(C)(6) and any information necessary to issue the

proposed PAL in conformance with all applicable provisions of 40 CFR 51.165(f)(1-15). *[Renumbered to reflect outline format]*

- b. For a Facility requesting a PAL pursuant to the provisions of 40 CFR 52.21(aa) an analysis sufficient to justify the applicability to obtain a PAL and any information necessary to issue the proposed PAL in conformance with all applicable provisions of 40 CFR 52.21(aa). *[Added per USEPA note of 3/31/16 regarding proposed rule 1600(C)(1) requirements for permitting PSD PALs]*
- (v) Prevention of Significant Deterioration (PSD) Analysis
  - a. For a Facility which is pursuant to the analysis submitted pursuant to subsection (B)(1)(a)(i)c. a Major PSD Facility or Major PSD Modification as defined in District Rule 1600(B): *[Cross reference to PSD applicability analysis added per USEPA note of 3/31/16]*
    - 1. A modeling protocol approved by the APCO, USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area; and *[40 CFR 51.166, 51.307 and 52.21(p). Pre-approval of protocol was suggested by USEPA to avoid undue expense by applicant.]*
    - 2. A control technology review pursuant to 40 CFR 52.21(j); and *[USEPA NSR Workshop Manual, Draft 1990 pg. 4-5]*
    - 3. A source impact analysis, including but not limited to analysis pursuant to 40 CFR 52.21(k) and a per-application analysis pursuant to 40 CFR 52.21(m)(1); and *[USEPA NSR Workshop Manual, Draft 1990 pg. 4-5]*
    - 4. Information required pursuant to 40 CFR 52.21(n) if not provided elsewhere in the application; and *[USEPA NSR Workshop Manual, Draft 1990 pg. 4-5]*
    - 5. An additional impact analysis including but not limited to analysis of direct and indirect impacts of the proposed emissions increase on soils, vegetation and visibility, pursuant to 40 CFR 52.21(o); and *[USEPA NSR Workshop Manual, Draft 1990 pg. 4-5]*
    - 6. An analysis of anticipated impacts on a Class I area if the Facility is located within 63 miles (100 kilometers) of such area pursuant to 40 CFR 52.21(p); and *[USEPA NSR Workshop Manual, Draft 1990 pg. 4-5]*

- (b) The APCO shall determine whether the application is complete not later than thirty (30) calendar days after receipt of the application, or after such

longer time as both the applicant and the APCO may agree in writing.  
[See: 40 CFR 52.166(q)(1), 40 CFR 70.5(a)(2), 40 CFR 124.3(c), Health & Safety Code 42301.3(d)(1).]

(2) Notifications Regarding Applications

- (a) After the determination of completeness has been made, the APCO shall transmit a written determination of completeness or incompleteness immediately within 10 working days to the applicant at the address indicated on the application.
- (i) If the application is determined to be incomplete, the determination shall specify which parts of the application are incomplete and how they can be made complete.
- a. Upon receipt by the APCO of information required to render an application complete or upon resubmittal of the entire application, a new thirty (30) day period in which the APCO must determine completeness, shall begin.
- (ii) When an application subject to the provisions of Rule 1600 is determined to be complete the APCO shall transmit a copy of the written completeness determination to USEPA and, upon request, provide USEPA with a copy of the application. [Required by 40 CFR 51.166(p)(1), 51.166(q)(2) and 52.21(p)(1)]
- (b) In the alternative, the APCO may complete the issuance of the ATC(s) within the thirty (30) calendar days after receipt of the application so long as all applicable analysis required pursuant to section (C) have been performed and the provisions of subsection (C)(7)(d) applies. either of the following conditions are met:
- ~~(i) None of the requirements contained in District Rule 1303 apply to the project; or [Provision moved to improve flow.]~~
- ~~(ii) The requirements of District Rule 1303(A) applies to the project and the issuance of the ATC(s) comply with the requirements of subsection (C)(2)(a)(i). [Provision moved to improve flow.]~~
- (c) If the application contains an analysis of anticipated visibility impacts on a Mandated Class I Federal Area, as defined in 40 CFR 51.301(~~e~~), pursuant to subsection (B)(1)(a)(~~viii~~) above or (B)(1)(a)(v)b.5., the APCO shall, within thirty (30) calendar days after receipt of the application, notify USEPA and the Federal Land Manager of the affected Class I Area.  
[Modified to conform term to 40 CFR 51.301]
- (i) The APCO shall include in such notification a copy of the application and all information relevant thereto and the analysis of anticipated impacts on the affected Class I Area. [Provides

*notification requirements per 40 CFR 52.166(p)(1) required for PSD delegation.*

(3) Effect of Complete Application

- (a) After an application is determined to be complete, the APCO shall not subsequently request of an applicant any new or additional information which was not required pursuant to subsection (B)(1)(a) or by a determination of incompleteness pursuant to subsection (B)(2)(a)(i). specified in the APCO=s list of items to be included within such applications. [Typographical error correction. Modified to cross reference application requirements per USEPA note of 3/31/16.]
- (b) Notwithstanding the above, the APCO may, during the processing of the application, require an applicant to clarify, amplify, correct or otherwise supplement the information required in such list in effect at the time the complete application was received.
- (c) A request by the APCO for clarification pursuant to subsection (B)(3)(b) above does not waive, extend, or delay the time limits in this rule for final action on the completed application, except as the applicant and the APCO may both agree in writing.

(4) Fees

- (a) The APCO shall not perform any analysis as set forth in section (C) below unless all applicable fees, including but not limited to Project Evaluation Fees for Complex Sources, as set forth in District Rule 301, have been paid. [Typographical error correction]

(C) Analysis [Please see flow chart]

(1) Determination of Emissions

- (a) The APCO shall analyze the application to determine the type, amount, and change (if any) in emissions pursuant to the provisions of District Rules 1304, 1310 and 1600. [Consolidates provisions and mandates PSD emissions calculations.]

~~(b) If a Facility has provided information pursuant to subsection (B)(1)(a)(vi) above, the APCO shall also analyze the application to determine the type, amount and change (if any) in emissions pursuant to the provisions of District Rule 1310.~~

- (2) Determination of Nonattainment NSR Requirements [Reorganized to reflect actual analysis process and flow.]

(a) After determining the emissions change (if any) The APCO shall, ~~after the analysis~~, determine if any or all of the provisions of District Rules 1303 apply to the new or modified Facility.

(i) If none of the provisions of District Rule 1303 apply to the new or ~~M~~modified Facility, then the APCO shall ~~commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation II~~ continue the analysis at subsection (C)(5) below. [Provision moved to (C)(7)(a)(i) below. Continues analysis flow.]

(ii) If only the provisions of District Rule 1303(A) apply to the new or modified Facility, and the application does not utilize SERs to reduce PE then:

a. The APCO ~~shall commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation II; and~~ [Provision moved to (C)(7)(a)(ii) below.]

~~b. The ATC or PTO so issued or modified shall develop and include conditions on any proposed ATC or PTO required to implement BACT on all new or modified Emissions Unit(s) subject to the provisions of District Rule 1303(A) at the Facility; and~~ [Modified to provide additional reference to requirements of 1303(A) per USEPA note of 3/31/16]

~~b. Continue the analysis at subsection (C)(4) below.~~ [Continues analysis flow.]

(iii) If only the provisions of District Rule 1303(A) apply to the new or modified Facility, and the application utilizes SERs to reduce PE then:

a. The APCO shall produce a Facility engineering analysis which contains substantially the same information required for a decision under section (D) below; and

b. After the production of the Facility engineering analysis the APCO shall ~~commence the issuance of the ATC or modification of the PTO pursuant to the provisions of Regulation II; and~~

~~c. The ATC or PTO so issued or modified shall develop and include conditions on any proposed ATC or PTO required to implement BACT on all new or Modified Emission Unit(s) subject to the provisions of District Rule 1303(A) at the Facility; and~~

~~c. Continue the analysis at subsection (C)(4) below.~~ [Continues analysis flow.]

(iv) If the provisions of District Rule 1303(B) apply to the new or modified Facility then the APCO shall continue the analysis ~~and issuance procedure as set forth in this Rule~~ at subsection (C)(3) below. [Continues analysis flow.]

~~(b) If the provisions of District Rule 1303(B) and the new or modified Facility is located in an area classified by USEPA as attainment or unclassifiable~~

~~then the APCO shall, after analysis, determine if the Facility will cause or contribute to a violation of the national Ambient Air Quality Standards.~~

~~(i) The provisions of section (C)(2)(b) above may be satisfied by performance of appropriate modeling as approved by the APCO. [Provision moved to subsection (D)(5)(b)(iv)]~~

(3) Determination of Offsets

(a) If the provisions of District Rule 1303(B) apply to the new or modified Facility, then the APCO shall analyze the application to determine the amount and type of Offsets required pursuant to the provisions of District Rule 1305.

(i) The APCO shall thereafter notify the applicant in writing of the specific amount and type of Offsets.

(b) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of Offsets eligible for use pursuant to the provisions of District Rule 1305.

(i) The APCO shall analyze the proposed Offset package to determine if an adjustment in the value of such Offsets is required pursuant to the provisions of District Rule 1305(C)(4). [Cross reference to RACT upon use provision.]

(ii) The APCO shall disallow the use of any Offsets which were created by the shutdown of Emissions Unit(s) when:

a. The Offsets were created by a shutdown of Emissions Unit(s) which was not in compliance with the provisions of 40 CFR 51.165(a)(3)(ii)(C); and [Revised to use cross reference to specific provisions regarding offsets created from shutdowns per USEPA note of 3/31/16.]

b. USEPA has disapproved the applicable implementation plan for the District or USEPA has made a finding of a failure to submit for the District of all or a portion of an applicable implementation plan. [Provisions added to comply with requirements of 40 CFR 51.165(a)(3)(ii)(C). Please note all offsets must also comply with all applicable provisions of Rule 1305 and or Regulation XIV]

(iii) After determining that the Offsets are real, enforceable, surplus, permanent and quantifiable and after any permit modifications required pursuant to District Rule 1305 or Regulation XIV have been made, the APCO shall approve the use of the Offsets.

a. For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification as defined in District Rule 1310 (C)(7) and which is located in a Federal nonattainment area, the APCO's approval shall be subject

to the approval of CARB and USEPA during the comment period required pursuant to subsection (D)(2) below.

b. For all other Facilities or Modifications subject to this provision the APCOs approval shall be subject to the approval of CARB during the comment period required pursuant to subsection (D)(2) below.

(iv) The Offset package must be submitted and approved by the APCO prior to the issuance of the New Source Review Document and any permits.

(v) An enforceable commitment to obtain the Offsets must be made prior to the commencement of construction on the new or Modified Facility. Such commitment may be made by inclusion of appropriate permit conditions on the proposed ATC or PTO. *[Moved from former subsection (C)(5) below. Clarifies term "obtained" pursuant to USEPA note of 3/31/16. See: 42 USC 7503(a)(1)(a) and (c)(1); 57 FR 13498, 13553 (4/16/92); 57 FR 55620, 55624 (11/25/92); 40 CFR 51.165(a)(3); 40 CFR 51 appendix S V.A.1.; and Memorandum: Offsets Required Prior to Permit Issuance dated 6/14/1994]*

(vi) The Offsets must be fully enforceable and in effect by the time the new or modified Facility commences operation. *[Added pursuant to USEPA note of 3/31/16. See: 42 USC 7503(a)(1)(a) and (c)(1); 57 FR 13498, 13553 (4/16/92); 57 FR 55620, 55624 (11/25/92); 40 CFR 51.165(a)(3); 40 CFR 51 appendix S V.A.1.; and Memorandum: Offsets Required Prior to Permit Issuance dated 6/14/1994]*

(c) After determination of the amount and type of offsets required and approval of the Offset package the APCO shall continue the analysis at subsection (C)(4) below. *[Modified for flow clarity]*

#### (4) Determination of Additional Federal Requirements

(a) For Facilities which have provided information pursuant to subsection (B)(1)(a)(vi)a. the APCO shall, after the analysis, determine if any or all of the provisions of District Rule 1310 apply to the facility.

(i) If none of the provisions of District Rule 1310 apply to the modification the APCO shall continue the analysis ~~and issuance procedure as set forth in this Rule~~ at subsection (C)(5) below. *[Modified for flow clarity.]*

(ii) If any of the provisions of District Rule 1310 apply to the modification the APCO prior to issuing any ATC or PTO shall:

- a. Ensure that an alternative site analysis required under 42 U.S.C. §7530(a)(5) (Federal Clean Air Act §173(a)(5)) has been performed; and
- b. Add any conditions to the applicable permits required to implement any provisions of District Rule 1310. ~~;~~ and

c. Continue the analysis at subsection (C)(5) below. [Continues analysis flow.]

(b) For Facilities and Modifications which require offsets pursuant to District Rule 1303(B) which do not provide information pursuant to (B)(1)(a)(vi)a. prior to issuing any ATC or PTO the APCO shall:

(i) Ensure that an alternative site analysis required under 42 U.S.C. §7530(a)(5) (Federal Clean Air Act §173(a)(5)) has been performed; and

(ii) Add any conditions to the applicable permits required to implement any provisions of District Rule 1310; and

(iii). Continue the analysis at subsection (C)(5) below. [Continues analysis flow.]

(c) For a Facility requesting a PAL pursuant to the provisions of District Rule 1310(F) the APCO shall add any conditions to the applicable permits required to implement the PAL and continue the analysis at subsection (C)(5) below. [Continues analysis flow.]

(45) Determination of Requirements for Toxic Air Contaminants

(a) The APCO shall determine if any of the provisions of District Rule 1320 - New Source Review of Carcinogenic Air Contaminants apply to the new or Modified Facility.

(i) If none of the provisions of District Rule 1320 apply the APCO shall continue the analysis at subsection (C)(6) below. [Continues analysis flow.]

(ii) If any of the provisions of District Rule 1320 apply to the new or Modified Facility the APCO shall

a. ~~R~~Require the Facility to comply with the applicable provisions of that rule prior to proceeding with any further analysis or processing of an application pursuant to this Regulation.; and

b. Add any conditions to the applicable permits required to implement any provisions of Rule 1320; and

c. Continue the analysis at subsection (C)(6) below. [Continues analysis flow.]

(5) Determination of Offsets

(a) If the provisions of District Rule 1303(B) apply to the new or modified Facility, then the APCO shall analyze the application to determine the amount and type of Offsets required pursuant to the provisions of District Rule 1305.

- ~~(i) The APCO shall thereafter notify the applicant in writing of the specific amount and type of Offsets.~~
- ~~(b) Upon receipt of the notification, the applicant shall provide to the APCO a proposed Offset package which contains evidence of Offsets eligible for use pursuant to the provisions of District Rule 1305.~~
- ~~(i) The APCO shall analyze the proposed Offset package to determine if an adjustment in the value of such Offsets is required pursuant to the provisions of District Rule 1305(C)(4).~~
- ~~(ii) The APCO shall disallow the use of any Offsets which were created by the shutdown of Emissions Unit(s) when:~~
- ~~a. The Offsets were created by a shutdown of Emissions Unit(s) which was not contemporaneous with the creation of the Offsets; and~~
- ~~b. USEPA has disapproved the applicable implementation plan for the District or USEPA has made a finding of a failure to submit for the District of all or a portion of an applicable implementation plan.~~
- ~~(iii) After determining that the Offsets are real, enforceable, surplus, permanent and quantifiable and after any permit modifications required pursuant to District Rule 1305 or Regulation XIV have been made, the APCO shall approve the use of the Offsets.~~
- ~~a. For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification as defined in District Rule 1310 (C)(7) and which is located in a Federal nonattainment area, the APCO's approval shall be subject to the approval of CARB and USEPA during the comment period required pursuant to subsection (D)(2) below.~~
- ~~b. For all other Facilities or Modifications subject to this provision the APCOs approval shall be subject to the approval of CARB during the comment period required pursuant to subsection (D)(2) below.~~
- ~~(iv) The Offset package must be submitted and approved by the APCO prior to the issuance of the New Source Review Document and any permits.~~
- ~~(v) The Offsets must be obtained prior to the commencement of construction on the new or Modified Facility.~~

*[Provisions moved to subsection (C)(3)]*

(6) Determination of Requirements for Prevention of Significant Deterioration (PSD)

- (a) The APCO shall review the PSD applicability analysis submitted pursuant to subsection (B)(1)(a)(i)c. to determine if the proposed Facility or Modification is or is not a Major PSD Facility or a Major PSD Modification as defined in District Rule 1600 and determine which, if any of the provisions of District Rule 1600 apply to the Facility. [Revised to

reflect the fact that the calculations need to be done to determine applicability per USEPA note 3/31/16.]

- (i) If the APCO determines that proposed Facility or Modification is a Major PSD Facility or a Major PSD Modification as defined in District Rule 1600 then the APCO shall perform the analysis required pursuant to the provisions of District Rule 1600(D)(2); and [Added to require PSD Analysis]
- (ii) If the proposed Facility or Modification contains a request for a new or modified PAL then the APCO shall perform the analysis required pursuant to the provisions of 40 CFR 52.21(aa)(1-15); and [Added to require PAL analysis per USEPA note of 3/31/16.]
- (iii) The APCO shall either complete the PSD permit issuance pursuant to the provisions of Rule 1600(D) or combine the appropriate analysis and necessary conditions with those required pursuant to this regulation; and [Added to allow PSD issuance separately or in conjunction with nonattainment NSR permitting.]
- (ii) Continue the analysis at subsection (C)(7) below. [Continues analysis flow.]

(7) Determination of Notice Requirements

- (a) If any of the following apply then the APCO shall commence the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of subsection (D).
  - (i) The Facility with the new or modified permit unit is subject to the provisions of District Regulation XII – Federal Operating Permits; [Aka the action is at a Title V Facility. Allows District to apply for “enhanced NSR” delegation such that NSR/PSD actions can be concurrently included in the Title V permit without additional noticing.]
  - (ii) The provisions of District Rule 1303(B) apply; [Aka the action needs offsets]
  - (iii) The provisions of District Rule 1310 apply; [Aka the action involves a Federal Major Facility]
  - (iv) The provisions of District Rule 1600 apply. [Aka the action is subject to PSD requirements.]
- (b) If any of the proposed new or modified Emissions Units require public notification pursuant to the provisions of District Rule 1320(E)(3)(e)(iii) or (F)(2)(b) then the APCO shall: [Notice is triggered by emission unit HRA over a threshold amount or case-by-case MACT determination.]
  - (i) Provide the notice specified by the applicable provision(s) of District Rule 1320 in addition to any other required notice; or
  - (ii) Provide notice pursuant to the provisions of subsection (D)(3)(a) containing any additional information required pursuant to the

applicable provision(s) of District Rule 1320. [Derived from Health & Safety Code 44362(b) and 40 CFR 63.43(h). Provision allows toxic notices to be combined with appropriate NSR/PSD notice level.]

(c) If none of the provisions listed in subsection (7)(a) or (b) above apply then the APCO shall commence the issuance if the ATC(s) or modification of the PTO(s) pursuant to the provisions of District Regulation II and provide notification of such issuance pursuant to the provisions of subsection (D)(3)(a)(ii) if any of the following apply:

(i) The application uses SERs to Reduce PE pursuant to the provisions of District Rule 1304; or [Aka it's a net-out transaction].

(ii) The emissions change (if any) for any Regulated Air Pollutant as calculated under subsection (C)(1) is greater than the lesser of the following:

a. 80% of the Major Facility Threshold for a Nonattainment Air Pollutant as set forth in District Rule 1303(B); or

b. 80% of the Federal Major Facility Threshold for HAPs as set forth in District Rule 1201(S)(1)(c) or (S)(2)(b); or

c. The Federal Significance Level for a Regulated Air Pollutant as defined in 40 CFR 52.21(b)(23).

[Provides for notice of minor source NSR permitting actions as required by USEPA. Modified to cover all regulated air pollutants, not just nonattainment pollutants as requested by USEPA note of 3/31/16. See staff report table This would result in the following notice thresholds: NOx & ROC = 20 tpy (80% of nonattainment major source threshold from 1303(B)), PM10 = 12 tpy (80% of nonattainment major source threshold from 1303(B)), HAP = 8 tpy single HAP; 20 tpy multiple HAPs (80% Federal Major Facility Threshold for Haps from 1201(S)), all other regulated pollutants ...since they are attainment/unclassified would be at the significance level found in 52.21(b)(23)(i)]

(d) If none of the provisions listed in subsection (7)(a), (b) or (c) above apply then the APCO shall commence the issuance of the ATC(s) or modification of the PTO(s) pursuant to the provisions of District Regulation II. [Provision moved and modified from (C)(2)(a)(i). Action is too small to trigger notice.]

## (D) Permit Issuance Procedure

### (1) Preliminary Decision

(a) After the analysis has been completed, the APCO shall issue a preliminary decision as to whether the NSR ~~Source Review~~ Document should be approved, conditionally approved, or disapproved and whether ATC(s) should be issued to the new or modified Facility. [Term modified for clarity per USEPA comment.]

- (b) The preliminary decision shall include:
- (i) A succinct written analysis of the approval, conditional approval or denial; and
  - (ii) If approved or conditionally approved, proposed permit conditions for the ATC(s) or modified PTO(s) and the reasons for imposing such permit conditions.

(c) The preliminary decision and draft NSR Document may be combined with any document(s) produced pursuant to District Rule 1600. [Allows combination with PSD documents per 1600(D)(3)(a)(iii)]

(2) CARB, USEPA and Affected State Review

- (a) ~~If the provisions of District Rule 1303(B) apply to the new or modified Facility- notice is required pursuant to the provisions of subsection (C)(7)(a-c)~~ the APCO shall, concurrently with the publication required pursuant to subsection (D)(3) below, send a copy of the preliminary decision and any underlying analysis to CARB, USEPA and any Affected State. [Deleted language shifted to section (C). Provides for minor NSR action notice to CARB & USEPA. Also satisfies review opportunity requirement pursuant to 40 CFR 51.166(p)(1) and 51.166(q)(2)(iv) necessary for PSD SIP approval.]
- (b) CARB, USEPA and any Affected State shall have thirty (30) days from the date of publication of the notice pursuant to subsection (D)(3) below to submit comments and recommendations regarding the preliminary decision.
- (c) Upon receipt of any comments and/or recommendations from CARB USEPA and any Affected State the APCO shall either:
- (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or
  - (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Affected State of the rejection and the reasons for such rejection.
- (d) For applications containing an analysis of anticipated visibility impacts on a Mandated Class I Federal Area, as defined in 40 CFR 51.301(~~o~~), pursuant to subsection (B)(1)(a)(~~viii~~) or (B)(1)(a)(v)a.5. above, the APCO, upon receipt of any comments from USEPA or the Federal Land Manager of the affected Modified Class I Federal Area, shall: [Reflects reorganization of subsection (B)(1)(a). Modified to conform term with 40 CFR 51.301]
- (i) Accept such comments and/or recommendations and modify the preliminary decision accordingly; or

- (ii) Reject such comments and/or recommendations, notify CARB, USEPA, and/or the Federal Land Manager of the affected Mandated Class I Federal Area of the rejection and the reasons for such rejection. *[Also satisfies review opportunity requirement for Federal Land Manager pursuant to 40 CFR 51.166(p)(1) and 51.166(q)(2)(iv) necessary for PSD SIP approval]*
- (3) Public Review and Comment
- (a) Publication of Notice and Notice Requirements *[Generally see 40 CFR 51.161(a)]*
    - (i) If notice is required pursuant to the provisions of subsection (C)(7)(a) or (D)(4)(d) the provisions of District Rule 1303(B) apply to the new or modified Facility then, within ten (10) days of the issuance of the preliminary determination, the APCO shall:
      - a. Produce a notice containing all the information set forth in subsection (D)(3)(a)(iii); and
      - b. Publish a notice in at least one newspaper of general circulation within the District; and *[Also satisfies notice pursuant to 40 CFR 51.166(q)(2)(iii) necessary for PSD SIP approval.]*
      - ~~bc.~~ Send a copy of the notice containing the information set forth in subsection (D)(3)(a)(iii) to the applicant; CARB; USEPA; Affected State(s); City and County where the proposed Facility or Modification is located; any State or Federal Land Manager or Indian governing body who's lands might be affected by emissions from the proposed Facility or Modification; and all persons who have requested such notice and/or on a list of persons requesting notice of actions pursuant to this regulation generally on file with the Clerk of the Board for the District; and *[Adds additional persons required for notice pursuant to 40 CFR 51.166(q)(2)(iv) necessary for PSD SIP approval.]*
      - ~~ed.~~ Provide notice by other reasonable means including but not limited to posting on the District's website, if such notice is necessary to assure fair and adequate notice to the public. *[Intent is to publish all notices on the District's website. Also satisfies notice pursuant to 40 CFR 51.166(q)(2)(iv) necessary for PSD SIP approval.]*
    - (ii) If notification of issuance is required pursuant to the provisions of subsection (C)(7)(c) then, within thirty (30) days of the issuance of the engineering analysis the APCO shall:
      - a. Produce a notice containing the information set forth in subsection (D)(3)(a)(iv) below; and
      - b. Post the notice on the District's website; and
      - c. Send a copy of the notification to the applicant; CARB; USEPA; Affected State(s); and all persons who have

requested such notice and/or on a list of persons requesting notice of actions pursuant to this regulation generally on file with the Clerk of the Board for the District.

(iii) ~~Such~~The notice required pursuant to subsection (D)(3)(a)(i) shall provide thirty (30) days from the date of the publication of the notice for the public to submit written comments on the preliminary decision and shall include: *[Also satisfies notice pursuant to 40 CFR 51.166(q)(2)(iii) necessary for PSD SIP approval.]*

- a. The name and location of the Facility, including the name and address of the applicant if different.
- b. A statement indicating the availability, conclusions of the preliminary decision and a location where the public may obtain or inspect the preliminary decision and supporting documentation; and
- c. A brief description of the comment procedures and deadlines; and
- d. If the APCO has rejected comments regarding anticipated visibility impacts on a Mandated Class I Federal Area, a notation of the availability of the reasons for such rejection; and *[Modified to conform term to 40 CFR 51.301]*
- e. If the provisions of District Rule 1600(C) apply:
  1. The degree of increment consumption; and
  2. Where a copy of the application and preliminary decision may be obtained; and *[Added pursuant to USEPA note of 3/31/15]*
  3. Notice of opportunity to request a public hearing regarding the air quality impact, control technology or other appropriate considerations of the preliminary determination for the Major PSD Facility or Major PSD Modification. *[Adds additional requirements from 40 CFR 51.166(q)(2)(iii) necessary for PSD SIP approval.]*
- f. If the provisions of District Regulation XII apply and the Federal Operating Permit is being issued concurrently then notice of the opportunity to request a public hearing on the proposed Federal Operating Permit pursuant to District Rule 1207(A)(1)(d).

(iv) The notification required pursuant to subsection (D)(3)(a)(ii) shall include:

- a. Identification of the Facility; including the name, address and Facility number; and
- b. Identification of the permit(s) involved; including permit number, and a brief description of the action taken;
- c. Information regarding obtaining review of the permit issuance decision by the District Hearing Board pursuant to the provisions of Health & Safety Code §42302.1.

(b) Availability of Documents

- (i) If notice is required pursuant to the provisions of subsection (C)(7)(a) or (b)the provisions of District Rule 1303(B) apply to the new or modified Facility, then at the time of publication of the notice required above the APCO shall make available for public inspection at the offices of the District or in another prominent place the following information:
- a. The application and any other information submitted by the applicant; and
  - b. The preliminary decision to grant or deny the Authority to Construct, including any proposed permit conditions and the reasons therefore; and
  - c. The supporting analysis for the preliminary decision. [Also satisfies document availability requirement pursuant to 40 CFR 51.166(q)(2)(ii) necessary for PSD SIP approval.]
- (ii) Notwithstanding the above, the APCO is not required to release confidential information. Information shall be considered confidential when:
- a. The information is a trade secret or otherwise confidential pursuant to California Government Code 6254.7(d); or
  - b. The information is entitled to confidentiality pursuant to 18 U.S.C. ~~1~~§1905; and
  - c. Such information is clearly marked or otherwise identified by the applicant as confidential.
- Note: all data submitted, including emissions data, is subject to the provisions of the California Public Records Act and thus is considered public unless specifically excluded by an exemption to that act. "Trade secret" is the most common exclusion. Raw data used to calculate emissions data is also excludable but the resulting emissions data is publically available.

(c) The APCO shall accept all relevant comment(s) submitted to the District in writing during the thirty (30) day public comment period.

(d) The APCO shall, if requested pursuant to the provisions provided for in the published notice, hold a public hearing regarding the proposed preliminary determination. [See 40 CFR 70.7(h)(1) and (h)(4); 70.3(d) and District Rule 1207(A)(1)(d) and (C)(2)]

(i) Such hearing shall be scheduled no less than thirty (30) days after the publication of a notice of public hearing is published pursuant to the provisions set forth in subsection (D)(3)(a). [Derived from 40 CFR 124.10(b)(2) and (c).]

- (de) The APCO shall consider all written comments submitted by the public during the comment period as well as any oral or written comments received at any public hearings(s). *[Also satisfies notice requirement pursuant to 40 CFR 51.166(q)(2)(vi) necessary for PSD SIP approval.]*
- (ef) The APCO shall provide a summary of any oral comments and keep a ~~record~~-copy of all written comments received during the public comment period or at any public hearing and shall retain copies of such comments and the District's written responses to such comments in the District files for the particular Facility. *[Also satisfies notice requirement pursuant to 40 CFR 51.166(q)(2)(vi) necessary for PSD SIP approval.]*
- (fg) If any changes are made to the preliminary decision as a result of comments received from the public, CARB, USEPA or any Affected State the APCO shall send a copy of the proposed changes to CARB and USEPA for review. *[Also satisfies notice requirement pursuant to 40 CFR 51.166(q)(2)(vi) necessary for PSD SIP approval.]*
- (h) Nothing in this subsection shall be interpreted to limit the availability of documents pursuant to the California Public Records Act (Government Code §§6250 et. seq.) as effective upon the date of the request for documents. *[USEPA note of 3/31/16 indicated an effective date might be necessary. Under the California Public Records Act the District is required to comply with California law in effect when the document is requested. NSR, PSD and any non-confidential information related to the permitting process is subject to this requirement regardless of whether or not this provision is specifically stated in the rule.]*

(4) Final Action

- (a) After the conclusion of the comment period and consideration of the comments, the APCO shall produce a final New Source Review Document.
- (b) Thereafter, the APCO shall take final action to issue, issue with conditions or decline to issue to deny issuance of the New Source Review Document.
  - (i) Such final action shall take place no later than 180 days after the application has been determined to be complete.
  - (ii) The APCO shall not take final action to issue the New Source Review Document if either of the following occurs:
    - a. USEPA objects to such issuance in writing; or
    - b. USEPA has determined, as evidenced by a notice published in the Federal Register, that the applicable implementation plan is not being adequately implemented in the nonattainment area in which the new or modified Facility is located.

- (c) The APCO shall provide written notice of the final action to the applicant, USEPA and CARB. *[Also satisfies notice requirement pursuant to 40 CFR 51.166(q)(2)(viii) necessary for PSD SIP approval.]*
  - (d) If substantive changes have been made to the Preliminary Decision or other ~~New Source Review~~NSR Document after the opening of the public comment period, the APCO shall ~~also cause to be published~~ a notice of final action substantially similar in content to the notice required by pursuant to the provisions of subsection (D)(3)(a) above, in a newspaper of general circulation within the District of the final action. *[Derived from proposed Rule 1600(D)(3)(e)(iv)]*
  - (e) If substantive changes are made to the preliminary decision or PSD Document which are substantial enough to require changes to the underlying requirements or which result in a less stringent BACT determination then the APCO shall reissue and renotice the preliminary decision and draft PSD document pursuant to the provisions of section (D). *[Derived from proposed rule 1600(D)(3)(e)(v)]*
  - (ef) The final New Source Review Documents and all supporting documentation shall remain available for public inspection at the offices of the District. *[Also satisfies notice requirement pursuant to 40 CFR 51.166(q)(2)(viii) necessary for PSD SIP approval.]*
  - (g) The final NSR Document may be combined with a final PSD Document produced pursuant to District Rule 1600(D). *[Derived from proposed rule 1600(D)(3)(e)(vii)]*
- (5) Issuance of ATC(s)
- (a) In conjunction with final action on the NSR Document the APCO shall issue ATC(s) for the new or modified Facility pursuant to the provisions of District Regulation II. Such ATC(s) shall contain, at a minimum, the following conditions:
    - (i) All conditions regarding construction, operation and other matters as set forth in the NSR Document; and
    - (ii) If a new or modified Facility is a replacement, in whole or in part, for an existing Facility or Emissions Unit on the same or contiguous property, a condition allowing a maximum of one hundred eighty (180) days start up period for simultaneous operation of the new or modified Facility and the existing Facility or Emissions Unit; and
    - (iii) A condition requiring the Facility to be operated in accordance with the conditions contained on the ATC(s); and
    - (iv) A condition requiring the surrender of offsetting emissions reductions, if such are required, prior to the commencement of actual construction. *[Provision moved from (D)(5)(b)(ii)]*

- (b) The APCO shall not issue ATC(s) to a new or modified Facility pursuant to this regulation unless:
  - (i) The new Facility or Modification to an existing Facility is constructed using BACT for each Nonattainment Air Pollutant when the provisions of Rule 1303(A) apply.
  - (ii) Any increase in emissions for each Nonattainment Air Pollutant has been properly offset pursuant to the provisions of District Rule 1305 or District Regulation XIV – Emission Reduction Credit Banking prior to Beginning Actual Construction when the provisions of Rule 1303(B) apply. [Provision partially moved to (D)(5)(a)(iv)]
    - a. Such offsetting emissions reductions are real, enforceable, quantifiable, surplus and permanent; and
    - b. The permits(s) of any Facility or Emissions Unit(s) which provided offsetting emissions reductions have been properly modified and/or valid contracts have been obtained pursuant to the provisions of District Rule 1305 or District Regulation XIV.
  - (iii) The new or modified Facility complies with all applicable Rules and Regulations of the District.
  - (iv) The new or modified Facility will not cause or contribute to a violation of the National Ambient Air Quality Standards.
    - a. This requirement may be satisfied by the performance of appropriate modeling as approved by the APCO. [Moved from former (C)(2)(b).]

(6) Issuance of PTO(s)

- (a) After the final action on the New Source Review Document pursuant to this Regulation and/or the issuance of ATC(s) pursuant to the provisions of District Regulation II, the APCO shall deny the subsequent issuance of PTO(s) unless the APCO determines that:
  - (i) The owner or operator of the new or modified Facility has submitted a completed application for ATC(s) or modification of a PTO.
    - a. An initial application for PTO(s) may be considered an application for a ATC(s) if the application and the applicant comply with all the provisions of this Regulation.
  - (ii) The new or modified Facility has been Constructed and operated in a manner consistent with the conditions as set forth in the NSR document and the ATC(s); and
  - (iii) That the permit(s) of any Facility or Emissions Unit(s) which provided Offsets to the new or modified Facility have been properly modified and/or valid contracts have been obtained pursuant to the provisions of District Rule 1305 or Regulation XIV.

- (iv) That the Offsets, if required pursuant to District Rule 1303(B), were real, permanent, quantifiable prior to the commencement of construction of the Facility.
- (v) That all conditions contained in the ATC(s) requiring performance of particular acts or events by a date specified have occurred on or before such dates.
- (vi) If the actual emissions are greater than those calculated when the ATC was issued:
  - a. That the owner/operator has provided additional offsets to cover the difference between the amount of offsets originally provided and the amount of offsets ~~necessary~~ required when calculated pursuant to District Rule 1305 as based upon the actual emissions of the facility; and
  - b. That such additional offsets were provided within ninety (90) days of the owner/operator being notified by the APCO that such additional offsets are ~~necessary~~ required.

~~{SIP: Submitted as amended 09/24/01 on \_\_\_\_\_; Approved 11/13/96, 61 FR 58133, 40 CFR 52.220(e)(239)(I)(A)(1); Submitted as amended 10/27/93 on 3/29/94; Conditional Approval 6/9/82, 47 FR 25013, 40 CFR 52.220(e)(87)(iv)(A) and 40 CFR 52.232(a)(13)(i)(A)}~~  
See SIP Table at: <http://www.mdaqmd.ca.gov/Modules/ShowDocument.aspx?documentid=45>

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## Rule 1320

### New Source Review For Toxic Air Contaminants

#### (A) Purpose

- (1) The purpose of this Rule is to:
  - (a) Set forth the requirements for preconstruction review of all new, Modified, Relocated or Reconstructed Facilities which emits or have the potential to emit any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance; and
  - (b) Ensure that any new, Modified, or Relocated Emissions Unit is required to control the emissions of Toxic Air Contaminants as required pursuant to Chapter 3.5 of Part 1 of Division 26 of the California Health and Safety Code (commencing with §39650); and
  - (c) Ensure that any proposed new or Reconstructed Facility or Emissions Unit is required to control the emissions of Hazardous Air Pollutants as required under 42 U.S.C. §7412(g) (FCAA §112(g)). [Citation added for clarity.]

#### (B) Applicability

- (1) General Applicability
  - (a) The provisions of this rule shall be applicable to:
    - (i) Applications for new, Modified or Relocated Facilities or Permit Units which were received by the District on or after the adoption date of this rule.
    - (ii) Permit Units installed without a required Authority to Construct Permit shall be subject to this rule, if the application for a permit to operate such equipment was submitted after the adoption date of this rule.
    - (iii) Applications shall be subject to the version of the District Rules that are in effect at the time the application is received.
- (2) State Toxic New Source Review Program (State T-NSR) Applicability
  - (a) The provisions of Subsection (E) of this Rule shall apply to any new or Modified Emissions Unit which:
    - (i) Emits or has the potential to emit a Toxic Air Contaminant; or
    - (ii) Is subject to an Airborne Toxic Control Measure.

- (3) Federal Toxic New Source Review Program (Federal T-NSR) Applicability
- (a) The provisions of Subsection (F) of this Rule shall apply to any new or Reconstructed Facility or new or Modified Emissions Unit which:
- (i) Emits or has the potential to emit 10 tons per year or more of any single HAP; or
  - (ii) Emits or has the potential to emit 25 tons per year or more of any combination of HAPs; or
  - (iii) Has been designated an Air Toxic Area Source by USEPA pursuant to the provisions of 42 U.S.C. §7412 (FCAA §112) and the regulations promulgated thereunder. *[Citation added for clarity.]*

(C) Definitions

The definitions contained in District Rule 1301 shall apply unless the term is otherwise defined herein.

- (1) “Air Toxic Area Source” - Any stationary source of Hazardous Air Pollutants that emits or has the potential to emit less than ten (10) tons per year of any single HAP or twenty-five (25) tons per year of any combination of HAPs and which has been designated as an area source by USEPA pursuant to the provisions of 42 U.S.C. §7412 (FCAA §112). *[Citation added for clarity.]*
- (2) “Airborne Toxic Control Measure” (ATCM) - Recommended methods or range of methods that reduce, avoid, or eliminate the emissions of a TAC promulgated by CARB pursuant to the provisions of California Health and Safety Code §39658.
- (3) “Best Available Control Technology for Toxics” (T-BACT) - the most stringent emissions limitation or control technique for Toxic Air Contaminants or Regulated Toxic Substances which:
  - (i) Has been achieved in practice for such permit unit category or class of source; or
  - (ii) Is any other emissions limitation or control technique, including process and equipment changes of basic and control equipment, found by the APCO to be technologically feasible for such class or category of sources, or for a specific source.
- (4) “Cancer Burden” - The estimated increase in the occurrence of cancer cases in a population resulting from exposure to carcinogenic air contaminants.

- (5) “Case-by-Case Maximum Achievable Control Technology Standard” (Case-by-Case MACT) - An emissions limit or control technology that is applied to a new or Relocated Facility or Emissions Unit where USEPA has not yet promulgated a MACT standard pursuant to 42 U.S.C. §7412(d)(3) (FCAA §112(d)(3)). Such limit or control technique shall be determined pursuant to the provisions of 40 CFR 63.43.
- (6) “Contemporaneous Risk Reduction” - Any reduction in risk resulting from a decrease in emissions of Toxic Air Contaminants at the facility which is real, enforceable, quantifiable, surplus and permanent.
- (7) “Hazard Index” (HI) - The total acute or chronic non-cancer Hazard Quotient for a substance by toxicological endpoint.
- (8) “Hazard Quotient” (HQ) - The estimated ambient air concentration divided by the acute or chronic reference exposure for a single substance and a particular endpoint.
- (9) “Hazardous Air Pollutant” (HAP) - Any air pollutant listed pursuant to 42 U.S.C. §7412(b) (Federal Clean Air Act §112(b)) or in regulations promulgated thereunder.
- (10) “Health Risk Assessment” (HRA) - A detailed and comprehensive analysis prepared pursuant to the most recently published District *Health Risk Assessment Guidelines* to evaluate and predict the dispersion of Toxic Air Contaminants and Regulated Toxic Substances in the environment, the potential for exposure of human population and to assess and quantify both the individual and population wide health risks associated with those levels of exposure. Such document shall include details of the methodologies and methods of analysis which were utilized to prepare the document.
- (11) “High Priority” - A Facility or Emissions Unit for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to ten (10).
- (12) “Intermediate Priority” - A Facility or Emissions Unit for which any Prioritization Score for cancer, acute non-cancer health effects or chronic non-cancer health effects is greater than or equal to one (1) and less than ten (10).
- (13) “Low Priority” - A Facility or Emissions Unit for which all Prioritization Scores for cancer, acute non-cancer health effects or chronic non-cancer health effects are less than one (1).
- (14) “Maximum Achievable Control Technology Standard” (MACT) - The maximum degree of reduction in emissions of HAPs, including prohibitions of such emissions where achievable, as promulgated by USEPA pursuant to 42 U.S.C. §7412(d)(3) (Federal Clean Air Act §112(d)(3)).

- (15) “Maximum Individual Cancer Risk” (MICR) - The estimated probability of a potential maximally exposed individual contracting cancer as a result of exposure to carcinogenic air contaminants over a period of 70 years for residential locations and 46 years for worker receptor locations.
- (16) “Moderate Risk” - A classification of a Facility or Emission Unit for which the HRA Report indicates the MICR is greater than one (1) in one million ( $1 \times 10^{-6}$ ) at the location of any receptor.
- (17) “Modification” (Modified) - Any physical or operational change to a Facility or an Emissions Unit to replace equipment, expand capacity, revise methods of operation, or modernize processes by making any physical change, change in method of operation, addition to an existing Permit Unit and/or change in hours of operation, including but not limited to changes which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance or which results in the emission of any Hazardous Air Pollutant, Toxic Air Contaminant, or Regulated Toxic Substance not previously emitted.
- (a) A physical or operational change shall not include:
- (i) Routine maintenance or repair; or
  - (ii) A change in the owner or operator of an existing Facility with valid PTO(s); or
  - (iii) An increase in the production rate, unless:
    - a. Such increase will cause the maximum design capacity of the Emission Unit to be exceeded; or
    - b. Such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
  - (iv) An increase in the hours of operation, unless such increase will exceed a previously imposed enforceable limitation contained in a permit condition.
  - (v) An Emission Unit replacing a functionally identical Emission Unit, provided:
    - a. There is no increase in maximum rating or increase in emissions of any HAP, TAC or Regulated Toxic Substance; and
    - b. No ATCM applies to the replacement Emission Unit.
  - (vi) An Emissions Unit which is exclusively used as emergency standby equipment provided:
    - a. The Emissions Unit does not operate more than 200 hours per year; and
    - b. No ATCM applies to the Emission Unit.
  - (vii) An Emissions Unit which previously did not require a written permit pursuant to District Rule 219 provided:
    - a. The Emissions Unit was installed prior to the amendment to District Rule 219 which eliminated the exemption; and

- b. A complete application for a permit for the Emission Unit is received within one (1) year after the date of the amendment to District Rule 219 which eliminated the exemption.
  - (viii) An Emissions Unit replacing Emissions Unit(s) provided that the replacement causes either a reduction or no increase in the cancer burden, MICR, or acute or chronic HI at any receptor location.
- (b) Any applicant claiming exemption from this rule pursuant to the provisions of subsection (C)(17)(a) above:
  - (i) Shall provide adequate documentation to substantiate such exemption; and
  - (ii) Any test or analysis method used to substantiate such exemption shall be approved by the APCO.
- (18) “Office of Environmental Health Hazard Assessment” (OEHHA) - A department within the California Environmental Protection Agency that is responsible for evaluating chemicals for adverse health impacts and establishing safe exposure levels.
- (19) “Prioritization Score” - The numerical score for cancer health effects, acute non-cancer health effects or chronic non-cancer health effects for a Facility or Emissions Unit as determined by the District pursuant to California Health and Safety Code §44360 in a manner consistent with the most recently published District Facility Prioritization Guidelines; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors, and non-cancer chronic factors.
- (20) “Receptor” - Any location outside the boundaries of a Facility at which a person may be impacted by the emissions of that Facility. Receptors include, but are not limited to residential units, commercial work places, industrial work places and sensitive sites such as hospitals, nursing homes, schools and day care centers.
- (21) “Reconstruction” (Reconstructed) - The replacement of components at an existing process or Emissions Unit that in and of itself emits or has the Potential to Emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:
  - (a) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and
  - (b) It is technically and economically feasible for the reconstructed major source to meet the applicable MACT Standard for new sources.

- (22) “Reference Exposure Level” (REL) - The ambient air concentration level expressed in microgram/cubic meter ( $\mu/m^3$ ) at or below which no adverse health effects are anticipated for a specified exposure.
- (23) “Regulated Toxic Substance” - A substance which is not a Toxic Air Contaminant but which has been designated as a chemical substance which poses a threat to public health when present in the ambient air by CARB in regulations promulgated pursuant to California Health and Safety Code §44321.
- (24) “Relocation” (Relocated) - The removal of an existing permit unit from one location in the District and installation at another location. The removal of a permit unit from one location within a Facility and installation at another location within the same Facility is a relocation only if an increase in MICR in excess of one in one million ( $1 \times 10^{-6}$ ) occurs at any receptor location.
- (25) “Significant Health Risk” - A classification of a Facility for which the HRA Report indicates that the MICR is greater than or equal to ten (10) in a million ( $1 \times 10^{-5}$ ) or that the HI is greater than or equal to one (1).
- (26) “Significant Risk” - A classification of a Facility or Emissions Unit for which the HRA Report indicates that the MICR is greater than or equal to one hundred (100) in a million ( $1 \times 10^{-4}$ ) or that the HI is greater than or equal to ten (10).
- (27) “Toxic Air Contaminant” (TAC) - an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health and has been identified by CARB pursuant to the provisions of California Health and Safety Code §39657, including but not limited to, substances that have been identified as HAPs pursuant to 42 U.S.C. See-§-7412(b) (Federal Clean Air Act §112(b)) and the regulations promulgated thereunder. *[Typographical error correction]*
- (28) “Toxics Emission Inventory Report” - An emissions inventory report for TAC and Toxic Substances prepared for a Facility or Emissions Unit pursuant to the District’s *Comprehensive Emission Inventory Guidelines*.
- (29) “Unit Risk Factor” (URF) - the theoretical upper bound probability of extra cancer cases occurring from the chemical when the air concentration is expressed in exposure units of per microgram/cubic meter ( $(\mu/m^3)^{-1}$ ).

(D) Initial Applicability Analysis

- (1) The APCO shall analyze the Comprehensive Emissions Inventory Report or Comprehensive Emissions Inventory Report Update which was submitted pursuant to District Rule 1302(B)(1)(b) within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, to determine if the new, Modified, Relocated, Emissions Unit or Reconstructed Facility is subject to provisions (E) or (F) of this rule.

- (a) If the Facility or Emissions Unit is subject to the State T-NSR pursuant to Section (B)(2), then the APCO shall perform the analysis required pursuant to Section (E).
- (b) If the Facility is subject to the Federal T-NSR pursuant to Section (B)(3), then the APCO shall perform the analysis required pursuant to Section (F).
- (c) If the Facility or Emissions Unit is subject to both the State T-NSR pursuant to Section (B)(2) and the Federal T-NSR pursuant to Section (B)(3) then the APCO shall perform the analysis required pursuant to Section (E) followed by the analysis pursuant to Section (F).
- (d) If the provisions of this Rule are not applicable to the Facility or Emissions Unit then the APCO shall continue the permit analysis process commencing with the provisions of District Rule 1302(C)(~~56~~).

(E) State Toxic New Source Review Program Analysis (State T-NSR)

(1) ATCM Requirements

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report within thirty (30) days of receipt or after such longer period as the APCO and the applicant agree to in writing, for the new or modified Emission Units(s) and determine if any currently enforceable ATCM applies to the Emissions Unit(s).
- (b) If an ATCM applies to the new or modified Emission Units(s) the APCO shall:
  - (i) Add the requirements of the ATCM or of any alternative method(s) submitted and approved pursuant to Health & Safety Code §39666(f) to any ATC or PTO issued pursuant to the provisions of this Regulation or District Regulation II whichever process is utilized to issue the permit(s); and
  - (ii) Continue the analysis with Section (E)(2).
- (c) If no ATCM applies to the proposed new or modified Emissions Unit the APCO shall continue the analysis with Section (E)(2).

(2) Emission Unit Prioritization Score

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory Report for the Emission Unit(s) and calculate three (3) prioritization scores for each new or modified Emission Unit.
  - (i) Prioritization Scores shall be calculated for carcinogenic effects, non-carcinogenic acute effects and non-carcinogenic chronic effects.

- (ii) Prioritization Scores shall be calculated utilizing the most recently approved CAPCOA *Facility Prioritization Guidelines*; the most recently approved OEHHA Unit Risk Factor for cancer potency factors; and the most recently approved OEHHA Reference Exposure Levels for non-cancer acute factors, and non-cancer chronic factors.
- (iii) Prioritization Scores may be adjusted utilizing any or all of the following factors if such adjustment is necessary to obtain an accurate assessment of the Facility.
  - a. Multi-pathway analysis
  - b. Method of release.
  - c. Type of Receptors potentially impacted.
  - d. Proximity or distance to any Receptor.
  - e. Stack height.
  - f. Local meteorological conditions.
  - g. Topography of the proposed new or Modified Facility and surrounding area.
  - h. Type of area.
  - g. Screening dispersion modeling.

(b) If all Prioritization Scores indicate that the Emission Unit is categorized as Low or Intermediate Priority, the APCO shall:

- (i) Determine if the Facility is subject to Federal T-NSR pursuant to subsection (B)(3) and continue the analysis with Section (F).
- (ii) If the Facility or Emission Unit is not subject to Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(~~56~~). [Correction of cross reference.]

(c) If any Prioritization Score indicates that the Emission Unit is categorized as High Priority, the APCO shall continue the analysis pursuant to subsection (E)(3).

(3) Emission Unit Health Risk Assessment

- (a) The APCO shall notify the applicant in writing that the applicant is required to prepare and submit an HRA for the new or modified Emission Units(s).
  - (i) The applicant shall prepare the HRA for the new or modified Emission Units(s) in accordance with the District's most recently issued *Health Risk Assessment Plan and Report Guidelines*.
  - (ii) The HRA for the emission unit shall be submitted by the applicant no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.

- (iii) The HRA may include a demonstration of Contemporaneous Risk Reduction pursuant to subsection (E)(4).
- (b) The APCO shall approve or disapprove the HRA for the new or modified Emission Units(s) within thirty (30) days of receipt of the plan from the applicant or after such longer time that the applicant and the APCO may agree to in writing.
- (c) After the approval or disapproval of the HRA for the new or modified Emission Units(s) the APCO shall transmit a written notice of the approval or disapproval of the HRA plan immediately to the applicant at the address indicated on the application.
  - (i) If the HRA for the new or modified Emission Units(s) was disapproved the APCO shall specify the deficiencies and indicate how they can be corrected.
    - a. Upon receipt by the District of a resubmitted HRA a new thirty (30) day period in which the APCO must determine the approval or disapproval of the HRA shall begin.
- (d) The APCO shall analyze the HRA for the new or modified Emission Unit(s) to determine the cancer burden for each Emissions Unit(s).
  - (i) If the cancer burden is greater than 0.5 in the population subject to a risk of greater than or equal to one in one million ( $1 \times 10^{-6}$ ) the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the cancer burden to equal or below 0.5 within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing.
    - a. If the applicant does not submit a revised application within the time period specified the APCO shall notify the applicant in writing that the application has been denied.
    - b. If the applicant submits a revised application the analysis process shall commence pursuant to District Rule 1302 as if the application was newly submitted.
  - (ii) If the cancer burden is less than or equal to 0.5 in the population subject to a risk of greater than or equal to one in one million ( $1 \times 10^{-6}$ ) the APCO shall continue with the analysis pursuant to subsection (E)(3)(e).
- (e) The APCO shall analyze the HRA for the new or modified Emissions Unit(s) and determine the risk for each Emissions Unit.
  - (i) If the HRA indicates that the Emissions Unit(s) are less than a Moderate Risk then the APCO shall continue the analysis pursuant to section (E)(3)(f).

- (ii) If the HRA indicates that the Emissions Unit(s) are a Moderate Risk but less than a Significant Health Risk then the APCO shall:
    - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
    - b. Continue with the analysis pursuant to subsection (E)(3)(f).
  - (iii) If the HRA indicates that an Emission Unit is a Significant Health Risk but less than a Significant Risk then the APCO shall:
    - a. Add requirements for each Emissions Unit sufficient to ensure T-BACT is applied to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
    - b. Require the Facility to perform a public notification pursuant to the District's *Public Notification Guidelines* and District Rule 1520; and
    - c. Continue with the analysis pursuant to subsection (E)(3)(f).
  - (iv) If the HRA indicates that an Emissions Unit is a Significant Risk then the APCO shall immediately notify the applicant that the application will be denied in its current form unless the applicant submits a revised application which reduces the risk below that of Significant Risk within thirty (30) days of receipt of the notice or after such longer time as both the applicant and the APCO may agree to in writing.
- (f) If the HRA Report indicates that all new or modified Emission Unit(s) are less than a Significant Risk then the APCO shall determine if the Facility or Emission Unit is subject to Federal T-NSR pursuant to subsection (B)(3).
- (i) If the Facility or Emission Unit is subject to the Federal T-NSR, continue the analysis with Section (F).
  - (ii) If the Facility or Emission Unit is not subject to the Federal T-NSR, continue the permit analysis process commencing with the provisions of District Rule 1302(C)(5).

(4) Contemporaneous Risk Reduction

- (a) Applicant may, as a part of an HRA required pursuant to subsection (E)(3), provide Contemporaneous Risk Reduction to reduce the Facility risk from the new or modified Emissions Units.
- (b) Contemporaneous Risk Reductions shall be:
  - (i) Real, enforceable, quantifiable, surplus and permanent; and

- (ii) Calculated based on the actual average annual emissions as determined by the APCO based upon verified data for the two year period immediately preceding the date of application; and
  - (iii) Accompanied by an application for modification of the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
- (c) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience a total increase in MCIR due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
- (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:
    - a. The Contemporaneous Risk Reduction is:
      - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
      - 2. No receptor location will experience a total increase in MCIR of greater than one in one million ( $1.0 \times 10^{-6}$ ) due to the cumulative impact of the Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
    - b. T-BACT is applied to any Emissions Unit which is a Moderate Risk or greater.
- (d) The APCO shall analyze the Contemporaneous Risk Reduction and determine if any receptor will experience an increase in total acute or chronic HI due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction.
- (i) The APCO shall deny a Contemporaneous Risk Reduction when such an increase occurs unless:
    - a. The Contemporaneous Risk Reduction is:
      - 1. Within 328 feet (100 meters) of the new or modified Emission Unit(s); or
      - 2. No receptor location will experience an increase in total acute or chronic HI of more than .1 due to the cumulative impact of the new or modified Emission Unit(s) and the Emission Unit(s) which cause the Contemporaneous Risk Reduction; and
- (e) Any Contemporaneous Risk Reduction must occur before the start of operations of the Emissions Unit(s) which increase the risk.

(F) Federal Toxic New Source Review Program Analysis (Federal T-NSR)

(1) MACT Standard Requirements

- (a) The APCO shall analyze the application and Comprehensive Emission Inventory and determine if any currently enforceable MACT standard applies to the new or Reconstructed Facility or Emissions Unit.
- (b) If a MACT standard applies to the new or Reconstructed Facility or Emissions Unit the APCO shall:
  - (i) Add the requirements of the MACT standard to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
  - (ii) Continue the analysis with District Rule 1302(C)(56).
- (c) If no MACT standard applies to the new or Reconstructed Facility or Emissions Unit the APCO shall continue the analysis with Section (G)(2).

(2) Case-by-Case MACT Standards Requirements

- (a) The APCO shall determine if a Case-by-Case MACT standard applies to the proposed new or Reconstructed Facility or Emissions Unit.
- (b) If a Case-by-Case MACT standard applies to the new or Reconstructed Facility or Emissions Unit the APCO shall:
  - (i) Notify the applicant in writing that the applicant is required to prepare and submit a Case-by-Case MACT application.
    - a. The applicant shall prepare the Case-by-Case MACT application in accordance with the provisions of 40 CFR 63.43(e).
    - b. The Case-by-Case MACT application shall be submitted no later than thirty (30) days after receipt of the written notification from the APCO or after such longer time that the applicant and the APCO may agree to in writing.
  - (ii) Preliminarily approve or disapprove the Case-by-Case MACT application within 30 days after receipt of the application or after such longer time as the applicant and the APCO may agree to in writing.
  - (iii) After the approval or disapproval of the Case-by-Case MACT application the APCO shall transmit a written notice of the approval or disapproval to the applicant at the address indicated on the application.
    - a. If the Case-by-Case MACT application is disapproved the APCO shall specify the deficiencies, indicate how they can be corrected and specify a new deadline for submission of a revised Case-by-Case MACT application.

- (iv) The APCO shall review and analyze the Case-by-Case MACT application and submit it to USEPA along with any proposed permit conditions necessary to enforce the standard.
  - (v) Provide public notice and comment of the proposed Case-by-Case MACT standard determination pursuant to the procedures in 40 CFR 63.42(h).
    - a. Such notice may be concurrent with the notice required under District Rule 1302(~~DC~~)(37)(a) if notice is required pursuant to that provision. *[Correction of cross reference.]*
  - (vi) Add the approved Case-by-Case MACT standard requirements or conditions to any ATC or PTO issued pursuant to the provisions of District Regulation XIII or Regulation II whichever process is utilized to issue the permit(s); and
  - (vii) Continue the analysis with District Rule 1302(C)(56). *[Correction of cross reference.]*
- (c) If a Case-by-Case MACT standard does not apply to the new or Reconstructed Facility or Emissions Unit the APCO shall continue the analysis with District Rule 1302(C)(56). *[Correction of cross reference.]*

**(G) Most Stringent Emission Limit or Control Technique**

- (1) If a Facility or Emission Unit is subject to more than one emission limitation pursuant to sections (E) or (F) of this rule the most stringent emission limit or control technique shall be applied to the Facility or Emission Unit.
  - (i) Notwithstanding the above, if a Facility or Emission Unit is subject to a published MACT standard both the MACT standard and the emissions limit or control technique, if any, required pursuant to sections (E) shall apply unless the District has received delegation from USEPA for that particular MACT standard pursuant to the provisions of 42 U.S.C. §7412(l) (FCAA §112(l)).

**(H) Interaction with Air Toxic “Hot Spots” Program for Existing Facilities**

- (1) Nothing in this Rule shall be construed to exempt an existing Facility from compliance with the provisions of District Rule 1520.

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**Appendix “B”**  
**Public Notice Documents**

1. Proof of Publication – Daily Press
2. Proof of Publication – Riverside Press Enterprise

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[Insert public notice image here]

[Insert public notice image here]

## 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 June 27, 2016 at 10:00 A.M. to amendment of Regulation XIII – *New Source Review* and adoption of Rule 1600 – *Prevention of Significant Deterioration*.

**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 amendments to Regulation XIII – *New Source Review*, new Rule 1600 – *Prevention of Significant Deterioration* and the Staff Report are on file and may be obtained from the Clerk of the Governing Board at the MDAQMD Offices. Written comments may be submitted to Eldon Heaston, Executive Director at the above office address. Written comments must be received no later than June 27, 2016 to be considered. If you have any questions you may contact Karen Nowak at (760) 245-1661 extension 6810 for further information. Traducción esta disponible por solicitud.

The Federal Clean Air Act (FCAA) requires that states/local air districts adopt a preconstruction review program for all new and modified stationary sources of pollutants for which their jurisdiction has been classified nonattainment for the Federal Ambient Air Quality Standards (FAAQS) (See 42 USC §7511a(b)). This program is commonly referred to as “New Source Review” or “Nonattainment New Source Review” (NSR or NANSR) and must comply with the applicable Federal implementing regulations which are primarily contained in 40 CFR 51.160 et seq. In addition, the California Clean Air Act (CCAA) requires local air districts to not only have a permitting program (Health & Safety Code §§42300 et seq.) but also to develop appropriate plans to attain and maintain the State Ambient Air Quality Standards (SAAQS) (Health & Safety Code §§40910 et seq.). The Mojave Desert Air Quality Management District (MDAQMD or District) has complied with these two requirements in part through the adoption, amendment and implementation of Regulation XIII – *New Source Review*.

The FCAA also requires that a preconstruction review be performed on certain large stationary sources of attainment air pollutants to ensure that degradation of the air quality does not occur in areas which are currently in compliance with the FAAQS (42 U.S.C §§7470 et seq.). This program is commonly referred to as “Prevention of Significant Deterioration” (PSD) and must also comply with applicable Federal implementing regulations which are primarily contained in 40 CFR 52.21. Historically this type of preconstruction review has been performed for many local air districts, the MDAQMD included, by the regional office of USEPA.

USEPA has recently been requesting and requiring local air districts to adopt rules and regulation such that they can implement the PSD preconstruction review process and be delegated the authority to issue PSD permits at the local level. At the same time USEPA is requiring that all local districts’ rules involving NANSR provide public notice for a significant number of so called “minor” permitting activities. Furthermore, the Federal Operating Permit Program (Title V Program) contains provisions which would, if approved by USEPA, allow NANSR, PSD and Title V permits and permit amendments to be issued simultaneously. These provisions, called

“Enhanced NSR,” enable a delegated air district to cut down substantially on the notice and review time required to issue Federal Operating Permits (FOPs) and their amendments.

The proposed amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration* are designed to allow USEPA to delegate PSD authority, adjust the noticing requirements of NANSR to comply with recent USEPA directives regarding the noticing of “minor” source permitting activities, and to allow the MDAQMD to request Enhanced NSR designation such that permitting activities for facilities subject to Title V may be performed concurrently. Additionally the proposed amendments and new rule adoption will clarify some provisions, provide appropriate cross-citations, and correct some minor discrepancies with USEPA requirements contained in the current rules.

Pursuant to the California Environmental Quality Act (CEQA) the MDAQMD has determined that a Categorical Exemption (Class 8 – 14 Cal. Code Reg §15308) applies and has prepared a *Notice of Exemption* for this action.

Deanna Hernandez  
Executive Lead  
Mojave Desert Air Quality Management District

**Appendix “C”**  
**Public Comments and Responses**

1. USEPA Comments of 3/31/2016
2. S. Head, Yorke Engineering, LLC Comments of 4/19/2016

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## Responses to USEPA Comments of 3/31/16 (Commenter #1)

*Please Note: USEPA's Comments of 3/31/16 were provided in comments inserted to the D1: 3/3/2016 redline version of Rules 1600 & 1302. Comments have been copied and section references have been provided to consolidate space in the Staff Report. A copy of the full redline including commentary is available upon request and will ultimately be included in the Rule Draft section of the Rule Archive document.*

### Rule 1302 Comments:

1-1. Comment YL1: (B)(1)(a)(i)a.- This does not really satisfy the requirements of 51.160 re application content, please provide some minimum elements.

Response: This subsection is in part a “catch-all” allowing the District to require any and all information necessary to properly issue the permit. A specific listing of elements might be interpreted in the future to exclude the necessity of providing other information which is not specifically mentioned. Therefore, the District has added an “including but not limited to” phrase which enumerates the items contained in 40 CFR 51.160 without excluding other potentially necessary items.

1-2. Comment YL2: (B)(1)(a)(i)b. - This provides actual emissions, but not PTE. The applicant must submit data adequate to calculate the PTE of the facility, baseline emissions for modified units and PTE of each EU in a project.

Response: The requirement to provide data regarding Potential To Emit (PTE) is already existent pursuant to the provisions of (B)(1)(A)(i)a. in that it is required for most, if not all, of the analysis required to be performed in subsection (C) of this rule. For additional clarity the District has added this element to the “including but not limited to” list in subsection (B)(1)(A)(i)a.

1-3. Comment YL3: (B)(1)(a)(ii) - Consider renaming this a Rule 1310 analysis or federal NSR ?

Response: Please note that Rule 1310 only deals with Federal Major Facilities. The offset thresholds contained in Rule 1303(B) are in some cases much less than the Federal Major Facility Threshold for a particular nonattainment air pollutant. Thus, a particular new or modified Facility or Emissions Unit might require offsets but not be classified as a Federal Major Facility for the particular nonattainment air pollutant. Therefore the District will not rename this section to avoid confusion by Non-Federal Major Facilities which happen to need offsetting emissions reductions.

1-4. Comment YL4: (B)(1)(a)(ii)a.1. - Only required for major sources, Does 1303 only require offsets from MS?

Response: Please see response to Comment 3 above regarding the differential between the 1303(B) offset threshold and Federal Major Facilities. The exemption from this requirement

for Facilities requiring offsets which happen to not be Federal Major Facilities has been moved from this provision to Subsection (B)(1)(a)(ii)a.4. so that the exemption can also be applied to the Statewide Compliance Certification requirement without unnecessary duplicative language.

Please also note that the California Environmental Quality Act (CEQA) provisions applicable to the new or modified Facility will in all likelihood provide an analysis sufficient to satisfy this provision. Most proposed new or modified Facilities will therefore have performed this type of analysis whether or not it is mandated.

1-5. Comment YL5: (B)(1)(a)(ii)a.2. - This exception also applies to the statewide compliance cert as well.

Response: Please see response to Comment 4 above.

1-6. Comment YL6: (B)(1)(a)(ii)a.2. - Note: Not yet SIP approved. [In reference to District Rule 1310.]

Response: Status of District Rule 1310 may be dependent upon interpretation(s) of California Health and Safety Code §§42500 et seq.

1-7. Comment YL7: (B)(1)(a)(ii)a.3. - What if the source is a FMM [Federal Major Modification]? Shouldn't this read an analysis sufficient to determine if the source is or is not a FMM.

Response: Section language has been modified for additional clarity.

1-8. Comment YL8: (B)(1)(a)(iii) - Should this be limited to FMF and FMM?

Response: Section language has been modified for additional clarity.

1-9. Comment YL9: (B)(1)(a)(iii)a. - EPA removed the letters and now just has an alpha list of definitions. [In reference to 40 CFR 51.301(o)].

Response: Citation has been corrected.

1-10: Comment BL10: (B)(1)(a)(iii)a. - 51.307(c) is the correct citation for the required analysis factors. [In reference to 40 CFR 51.301(c).]

Response: Citation has been corrected. District is considering broadening this citation to include the entire 40 CFR 51 subpart P (commencing with section 51.300) to avoid inadvertently omitting a requirement.

1-11. Comment YL11: (B)(1)(a)(v) - Consider renaming Rule 1600 analysis?

Response: Comment noted. District will retain current nomenclature to avoid confusion of regulated Facilities.

1-12. Comment BL12: (B)(1)(a)(v)a.5. – See comment. [Potentially a cross reference to an incorrect cross reference contained in subsection (B)(2)(c).]

Response: Citation cross reference in subsection (B)(2)(c) has been corrected.

1-13. Comment YL13: (B)(1)(b) - This requirement applies to all apps, not just PSD, so inappropriate to cite SPD as basis.

Response: Please note requirement has not changed from currently existing version of the rule. Provision was originally developed to satisfy the lowest common denominator of all existing State and Federal timing limitations contained in statute or regulation. Citation is provided for reference only to indicate which provision had the smallest time period specified.

1-14. Comment YL14: (B)(2)(c) - All references to this term must be updated. [In reference to Class I Area as defined in 51.301(o).]

Response: Term has been modified to read “Mandatory Class I Federal Area” and citation has been corrected throughout.

1-15. Comment YL15: (B)(3)(a) - Where is this list? (B)(1)(a)(i)a specifies “enough info” no list.

Response: Provision modified to cross reference subsection (B)(1)(a)(i)a. or the list of incompleteness pursuant to subsection (B)(2)(a)(i). See also response to Comment 1 above.

1-16. Comment YL16: (C)(2)(a)(ii) - How do you know what the “applicable” ones are? I think the “new or modified” is better language.

Response: Language has been modified to cross reference District Rule 1303(A) which specifies thresholds at which Emissions Units/Permit Units would require Best Available Control Technology (BACT). Please note that District Rule 1303(A) provides that a *modified* Emissions Unit emitting or having the potential to emit <25lbs/day of a nonattainment air contaminant at a Major Facility OR *any new or modified* Emissions Unit emitting or having the potential to emit <25lbs/day of a nonattainment air contaminant at a Non-Major Facility would not require BACT.

1-17. Comment YL17: (C)(2)(a)(ii) - Isn't a “modified” ATC or PTO also issued? I don't think you need “modified” here.

Response: Language modification in response to Comment 16 above has rectified this issue.

1-18. Comment YL18: (C)(2)(a)(iii)b. - Same comments as above. [In reference to comments 16 and 17 above.]

Response: See response to comments 16 and 17 above.

1-19. Comment YL19: (C)(3)(b)(i) - This provision needs to be updated to be consistent with Surplus. [In reference to RACT upon use provision found in District Rule 1305(C)(4)]

Response: Comment Noted. Subsection (C)(3)(b) requires all offsets to be eligible for use pursuant to the provisions of District Rule 1305. District Rule 1305(B)(1)(a) indicates that all offsets are required to be calculated and meet the requirements of Regulation XIV – *Emission Reduction Credit Banking*. Regulation XIV requires all proposed offsets to be Real, Permanent, Quantifiable, Enforceable and Surplus (See District Rule 1401(DD) for the definition of Surplus). Pursuant to the guidance provided by a USEPA Memo of 8/26/1994 by John Seitz interpreting the provisions of Federal Clean Air Act §173(c)(1) the “RACT upon use” adjustment is a necessary part of determining any proposed offsets surplus at the time when they are proposed to be used. This particular provision is a procedural reminder that a “RACT upon use” analysis is necessary prior to proceeding onward.

1-20. Comment YL20: (C)(3)(b)(ii)a. - This is not what is required by 165(a)(ii)(C).

Response: Language has been modified to reference the appropriate regulatory section presuming that cited reference should be 40 CFR 51.165(a)(3)(ii)(C).

1-21. Comment YL21: (C)(3)(b)(iii)a. - How do you envision this approval will be granted?

Response: As with all approvals from other agencies required for permit issuance as referenced in Regulation XIII approval will generally be presumed by silence during the comment/review period to avoid unintentional delays during the approval process unless the underlying requirements mandate specific approval in a particular format. If specific approval, typically written approval, is required for particular items the District requests USEPA to provide citations to the statutory provision, regulations and/or guidance documents mandating such specific written approval. Comments during the comment/review period are required to be addressed and if approval issues are present this would necessitate close consultation with the commenter to resolve the issue.

1-22. Comment YL22: (C)(3)(b)(v.) - This is not a required milestone. CAA 173(c)(1) required that the offsets must be enforceable by the time of permit issuance. EPA views this that the offsets must be identified and a permit condition to surrender them no later than commencing operation is required. The District is free to require surrender by commencement of construction, but I added the federal requirement, by the time operation is commenced.

Response: This language is currently in Rule 1302(C)(5)(b)(v). Since the subject matter involves offsets the District cannot make it less stringent pursuant to the provisions of California Health & Safety Code §§42500 et seq. by removing such language.

In practice the District has always interpreted the term “obtained” to mean having enough legal control over the particular offsets such that the required amount needed may be surrendered immediately upon commencement of operations. Evidence of such control has historically been provided by binding contractual agreements, ownership of ERC certificates and even, in some

cases, surrender of such ERC certificates prior to commencement of construction. All permitting actions requiring offsets contain one or more conditions in the resultant permits indicating when such offsets shall be effective and/or when ERC certificates shall be surrendered. An additional paragraph has been added as (C)(5)(b)(vi) to clarify the District's current practice and mandate that offsets must be effective no later than the date the new or modified Facility commences operation of the equipment in question. (See: 42 USC 7503(a)(1)(a) and (c)(1); 57 FR 13498, 13553 (4/16/92); 57 FR 55620, 55624 (11/25/92); 40 CFR 51.165(a)(3); 40 CFR 51 Appendix S V.A.1.; and guidance found in USEPA Memorandum: Offsets Required Prior to Permit Issuance dated 6/14/1994.)

1-23. Comment YL23: (C)(6)(a) - I revised the language in (a) because this section is supposed to determine if the requirements of Rule 100 are applicable. The way to do that is to determine if the project is a new MS or MM, OR a request for a PAL. If so, then the analysis would proceed. The current language requires a determination of "if any requirements apply." But really this can only be determined by performing the emission calculations.

Response: Language modified to clarify that this analysis is intended to not only determine applicability but also what specific PSD provisions, if any, apply to the particular proposed action. A cross reference to the PSD applicability analysis submitted pursuant to subsection (B)(1)(a)(i)c. has also been added which should contain the necessary emissions calculations to make these determinations.

1-24. Comment YL24: (C)(7)(c)(ii) - Public notice is required for all permit actions above specified thresholds, not just NA pollutants. The table needs to include and set thresholds for the other NAAQS.

Response: Term nonattainment Air Pollutant has been replaced with Regulated Air Pollutant to cover both nonattainment and attainment pollutants. Table has been replaced with thresholds set at 80% of the Major Source Threshold for Nonattainment Air Pollutant OR the Federal Significance Level for Regulated Air Pollutant as specified in 40 CFR 52.21(b)(23)(i). Due to the District's particular nonattainment classification(s) this results in a notice threshold of 20 tpy for NO<sub>x</sub> and ROC; 12 tpy for PM<sub>10</sub> and a notice level set at the significance threshold for all other pollutants.

1-25. Comment YL25: (C)(7)(c)(ii) - Why not 80% for these pollutants as well? We will need to discuss the type of analyze the District can provide to justify these thresholds before EPA can effectively comment on them. [In reference to threshold limits for PM<sub>10</sub> and PM<sub>2.5</sub>]

Response: Minor Source notice thresholds are justified elsewhere in the staff report.

1-26. Comment YL26: (D)(3)(b)(ii) - EPA has been having some issues with what info/data the CAA allows to be withheld. We are checking on this and may have additional comments.

Response: The District, as a public entity in the State of California is subject to the provisions of the California Public Records Act (California Government Code §§6250 et seq.) and is required to comply with all of its provisions in effect when the particular document is

requested. The California Public Record Act also requires that whenever documents are withheld pursuant to its provisions that the nature and reason for such withholding are disclosed. The act provides for judicial review of whether a particular item being withheld is proper pursuant to law. Any person requesting documents regarding the action at any point in the future will have standing to challenge the treatment of any particular information or document as confidential.

1-27. Comment YL27: (D)(3)(h) - This needs an “as it exists date” to make it approvable.

Response: The District is required to comply with the provisions of the California Public Records Act (California Government Code §§6250 et seq.) in effect at the time when the particular document is requested. A specific date limitation will only serve to confuse applicants who’s submissions will be subject to the provisions of the act in effect at the time the request is made. The District will be required to release any and all non-exempt documents regarding this particular action within 10 days of request for same regardless of whether or not a specific date limitation is provided in the Rule.

#### Rule 1600 Comments

1-28. Comment YL1: (A)(2)(a) - I deleted this because 52.21 is IBR’d [Incorporated by Reference] in section 3.a, with certain modifications. So every else in the rule, you want to refer to 52.21 as IBR’d in the rule, not make additional IBR’s of 52.21.

Response: All incorporation by reference language has now been moved to subsection (A)(3).

1-29. Comment YL2: (A)(3)(a) - If there have been no revisions since July 1 of the year adopted, then EPA suggests citing the July 1 date for ease of future reference.

Response: If rule is adopted prior to July 1, 2016 then this date will read July 1, 2015 unless 40 CFR 52.21 has been amended between July 1, 2015 and the adoption date. If the rule is adopted after July 1, 2016 then the date will read July 1, 2016 unless 40 CFR 52.21 has been amended between that date and the ultimate adoption date.

1-30. Comment YL3: (B)(11) - PSD does not require offsets, is this needed here?

Response: Reference to offsets has been removed. Please note however if a PSD permitting action is taken in conjunction with a nonattainment NSR action that requires offsets the resultant merged document will contain an offset package and offset package analysis.

1-31. Comment BL4: (C) - Paragraphs (1) and (2) from model rule are in the Procedures rule.

Response: Correct.

1-32. Comment YL5: (C)(1) - Only a new or existing PSD major source can request a PAL. A PAL is optional and its purpose is to prevent PSD permit requirements from applying, therefore

such a source does not obtain a PSD permit pursuant to this rule. Instead they modify their existing PSD permit.

Response: Terminology has been adjusted for clarity. If a set of permit conditions (which happen to be PAL like in nature) keep the Facility in question from becoming a Major PSD Facility or Major PSD Modification then a PSD Permit would not be required.

1-33. Comment: Potential addition of (C)(4). “The owner/operator of a major stationary source seeking to obtain a PAL permit shall comply with the requirements of 40 CFR 52.21 (aa)(1)-(15).”

Response: Language has been added with the addition of a terminology change of “major stationary source” to “Major PDS Facility” to conform with the remainder of the Rule.

1-34. Comment YL6: (D)(2)(a) - Check if this exact same provision is in Rule 1302.

Response: Cross reference to provisions of Rule 1302 ensure that requirements are the same.

1-35. Comment BL7 and YL8: (D)(3)(e) – BL7. The one year deadline is a statutory requirement for the PSD program. See CAA Section 165(c). YL8. While it is statutory, the purpose is to give the applicant the opportunity to sue if not done, since an extension is only allowed if both agree, I think this is within the District’s flexibility to allow.

Response: The District has always included a waiver of time period upon the agreement between the applicant and the District due to the potential of delays caused by the necessity to gain other approvals for the project in questions. Common sources of delay include but are not limited to land use issues, other environmental permits, California Energy Commission proceedings, and CEQA suits.

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**Karen Nowak**

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**From:** Sara Head (SHead@YorkeEngr.com) <SHead@YorkeEngr.com>  
**Sent:** Tuesday, April 12, 2016 7:56 PM  
**To:** Karen Nowak  
**Subject:** RE: Rule Development Input

Karen –

Sorry that I missed your deadline yesterday. When you sent your email (3/9) was my last day at AECOM, so I've been trying to get situated here at Yorke. Plus I am Technical Program Chair for the A&WMA Annual Conference (ACE) in New Orleans in June this year, and March and April are very busy months for us to finalize the technical program (over 100 sessions with >40 panels and 350 papers/posters, a lot to organize). I was only able to look through the materials quickly, and can only provide a few observations.

- You cover it in Rule 1600(D)(i)(b), but you could also include a question in your NSR flow chart regarding whether the facility is a thermal electrical generation facility >50MW, in which case there needs to be coordination with the CEC
- I didn't take the time to track down all of the cross references to the Federal PSD regs, but the impression that one gets looking thru these rules and flow charts is that PSD applicability is only emissions based. I'm sure it's there if I looked at the references, but a facility is also subject to PSD if it has an impact of >1 ug/m3 on a Class I area. Since there are sources close to Joshua Tree, I think it would be good to make it clear somewhere that that this check is needed.
- It appears to me that Rule 1600(D)(3)(e)(v) requires that the draft permit be recirculated if BACT is made less stringent during the comment period? If true, is that necessary? For example, for Palmdale Hybrid Power Project (PHPP) the EPA proposed unachievable PM10 limits based on BACT they determined from other power plants in other states (that was later shown in source tests to be unachievable). I made comments on the draft permit, and EPA revised the limits significantly (still not as much as we requested). EPA circulated a response to comments with the final permit, but they did not re-notice or recirculate the permit or reopen the comment period. The way the rule reads to me, even a tiny change to BACT would require a new comment period, much less a significant change.
- Rule 1302(B)(1)(a)(ii)(v)a.1 made me laugh – EPA recommends submitting a modeling protocol to save applicants money. For PHPP, we submitted a modeling protocol to EPA that they never commented on. 2 years later after the new 1-hr NO2 NAAQS was promulgated, Region 9 sent the draft permit to OAQPS for sign-off, and OAQPS wanted us to redo all of the modeling analyses because we'd only used 3 years of met (which we had clearly proposed in the protocol) and not 5. They agreed that met data from the Palmdale Regional airport could be considered on-site (in which case 1 yr could have been enough), but said that even with on-site data, that if more than 1 year is available, up to 5 years of available data must be used. Also, it was clear that 5 years would not change the result. At any rate, Scott Bohning issued the permit without requiring the re-do. (I'm not suggesting a change here, I just had to mention it).
- Rule 1302(B)(1)(a)(ii)(v)a. – page 1302-3 these sections refer to the 1990 Draft NSR Manual pages 4 thru 5, but I looked at the puzzle book and this is just the introduction. Was it intended to go back later and put in the correct page references? Also please note that you have two part "3" in the list.
- In this list of requirements, isn't item iii.a the same as iv.a.5? (a visibility analysis for Class I areas within 100 km)? Why the duplication?
- I may have missed it, but don't you also need to mention a growth analysis in this list?
- Furthermore, although not explicitly listed in the federal PSD regulation, EPA Region 9 always requires an Endangered Species Act analysis (as well as a cultural Section 106 analysis, although they have not been as thorough about that. These are both listed on an ancient complete application list that EPA was still using the last time I did a PSD permit (PHPP in 2010). I thought that Region 9 had also been insistent in PSD delegation

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agreements that an ESA analysis be done. Should that be mentioned in the rule or at least in the Staff report? If EPA did not mention this in their comments, then it could be skipped, but that would surprise me.

- Both Victorville 2 and PHPP used the PSD permit as the nexus for ESA Section 7 consultation, to avoid ESA Section 10 consultation which takes years longer. Is that nexus only available if EPA issues the PSD, or would that also work if issued by MDAQMD? If not, that was the only advantage of getting a PSD through EPA.

Thanks for giving me the opportunity to provide input. I'm curious if you heard from many others in your distribution on this email which is a who's-who in permitting. If any of the others did a reply all, I wouldn't get it since your email used my AECOM email address. I look forward to MDAQMD getting delegation of this program (and hopefully I will get some more PSD projects!)

Sara

**Sara J. Head, QEP | Principal Scientist | Ventura County Office**

O: (805) 376-0088 | M: (805) 320-8059

[SHead@YorkeEngr.com](mailto:SHead@YorkeEngr.com) | [V-card Link](#)

**Yorke Engineering, LLC | Corporate Office**

31726 Rancho Viejo Road, Suite 218, San Juan Capistrano, CA 92675

Phone: (949) 248-8490 | Fax: (949) 248-8499

[www.YorkeEngr.com](http://www.YorkeEngr.com)



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**From:** Head, Sara [<mailto:Sara.Head@aecom.com>]

**Sent:** Wednesday, March 9, 2016 2:58 PM

**To:** Sara Head ([SHead@YorkeEngr.com](mailto:SHead@YorkeEngr.com)) <[shead@yorkeengr.com](mailto:shead@yorkeengr.com)>

**Subject:** FW: Rule Development Input

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**From:** Karen Nowak [<mailto:k2nowak@mdaqmd.ca.gov>]

**Sent:** Wednesday, March 09, 2016 1:46 PM

**To:** Moussavian, Lida; 'Angela.Harrell@elementis.com'; 'brenda.abernathy@navy.mil'; 'CLMorrow@semprautilities.com';

'cykaufman@mwdh2o.com'; 'dmcgivney@semprautilities.com'; 'David Rib'; 'drtedguth@aol.com';

'elizabeth.rehoreg@ch2m.com'; 'erin.adams@usmc.mil'; 'fgobler@nwpipes.com'; 'Glen\_King@fpl.com';

'JBoyer@TENASKA.com'; 'JCASSMASSI@aqmd.gov'; 'john.parks@mineralstech.com'; 'Judy\_Rocchio@nps.gov';

'LWallace@semprautilities.com'; 'marci.stepman@verdant-env.com'; Burns, Mark A CIV (US); 'may@svminerals.com';

'MCHale@semprautilities.com'; 'mcadle@glaze-n-seal.com'; 'muhammad.bari@irwin.army.mil'; 'Noel Muyco

([nmuyco@semprautilities.com](mailto:nmuyco@semprautilities.com)); 'PHarvey@reliant.com'; 'sbfarmbureau@msn.com'; 'bradley.dickinson@us.af.mil';

'shonan@molycorp.com'; 'terryk@charlesmcmurray.com'; 'Tonnie\_Cummings@nps.gov'; Head, Sara;

'Michael.Darmody@altagas.ca'; 'jkessler@energy.state.ca.us'; [dhaggard@calportland.com](mailto:dhaggard@calportland.com); 'Michael Taylor';

'Glen\_King@fpl.com'; Mark Solheid ([Mark.J.Solheid@jpl.nasa.gov](mailto:Mark.J.Solheid@jpl.nasa.gov)); 'Williams, Diana M.'; 'Larry.Ashby@Mineralstech.com';

'amcqueen@yorkeengr.com'; 'Darlene Marie Bray'; 'jerry.salamy@CH2M.com'; 'Tom W. Andrews

([TAndrews@sierraresearch.com](mailto:TAndrews@sierraresearch.com)); 'Gary Rubenstein'; 'kchristensen@ducaero.com'; 'jlester@environcorp.com'

**Cc:** Tracy Walters

**Subject:** Rule Development Input

The MDAQMD is developing a set of regulatory changes designed to allow the U.S. Environmental Protection Agency (USEPA) to delegate the authority to issue Prevention of Significant Deterioration permits to the district. At the same

## Responses to Comment of S. Head, Yorke Engineering, LLC dated 4/19/2016

*Comments have been paraphrased.*

2-1. Comment: Could you include a question in your NSR flow chart regarding whether the facility is a thermal electrical generation facility >50MW requiring coordination with CEC?

Response: The NSR flow charts are intended as guidance and will not be adopted as part of the rule(s), however, a question regarding electrical generation facilities will be added.

2-2. A facility is also subject to PSD if it has an impact of >1 ug/m<sup>3</sup> on a Class I area. Since there are sources close to Joshua Tree this should be clarified.

Response: This requirement is adopted by reference in Rule 1600. A note will be included in the flow chart guidance to ensure that it is not inadvertently omitted.

2-3 Comment: Does Rule 1600(D)(3)(e)(v) requires that the draft permit be recirculated if BACT is made less stringent during the comment period?

Response: Recirculation is triggered pursuant to USEPA requirements. Generally BACT is agreed upon by all agencies involved prior to issuance of the preliminary determination.

2-4 Comment: Modeling protocol submissions do not save applicant's money.

Response: Comment noted.

2-5 Comment: Rule 1302(B)(1)(a)(ii)(v)a. refer to the 1990 Draft NSR Manual pages 4 thru 5 but these are just overviews.

Response: Parenthetical citation to the 1990 Draft NSR Manual has been augmented.

2-6 Comment: Please note that you have two part "3" in the list.

Response: Outline formatting has been corrected.

2-7 Isn't item iii.a the same as iv.a.5? (a visibility analysis for Class I areas within 100 km)? Why the duplication?

Response: 1302(B)(1)(a)(iii) is the same as (B)(1)(a)(iv)a.5. but not all Facilities or sources will be subject to both requirements. The duplication will ensure that all applicable sources will be subject to this provision.

2-8 Don't you also need to mention a growth analysis, an Endangered Species Act analysis, and cultural Section 106 analysis?

Response: This analysis may be required under the “other information” requirements scattered throughout Rule 1302. In addition, most all new or modified facilities will undergo review pursuant to the California Environmental Quality Act (CEQA) at some point during the development process. At the earliest such review would occur during the land use approval process and at the latest during the air permitting process. Facilities which are large enough to require growth analysis, Endangered Species Act analysis and Section 106 analysis will most likely have these satisfied by the appropriate CEQA documentation.

2-9 Comment: Will the PSD permit be able to be used as the nexus for ESA [Endangered Species Act] Section 7 consultation to avoid ESA Section 10 consultation?

Response: It is unknown specifically at this time whether this coordination between the Endangered Species Act and the PSD permit will be possible. However, since EPA will be delegating the entire program and the District will be required to use EPA’s protocols and guidance we suspect that this may indeed be able to be used in the same manner as presently.

June 6, 2016



sierra  
research

A Trinity Consultants Company

1801 J Street  
Sacramento, CA 95811  
Tel: (916) 444-8668  
Fax: (916) 444-8373  
Ann Arbor, MI  
Tel: (734) 761-8666  
Fax: (734) 761-6755

**Memo to:** Karen Nowak, MDAQMD

**From:** Gary Rubenstein

**Subject:** PSD/NSR Rule Development Input

Thank you for the opportunity to provide comments and suggested changes to the District's proposed amendments to the existing New Source Review (NSR) regulation and proposed new Prevention of Significant Deterioration (PSD) rule (Regulation XIII and Rule 1600, respectively). Although our suggested changes are mostly editorial in nature, there are several more substantive changes that we are proposing. Our changes are shown in blue on the attached version of the proposed rule changes, and our specific comments are discussed in detail below.

#### Rule 1600

Rule 1600, Section (D)(3)(d)(i) (Permit Issuance Procedure: Public Hearing) requires the APCO to hold a public hearing if any person requests one. We are concerned that this provision may be overly permissive and could allow project opponents to request a public hearing simply for the sake of delaying a project. The requirement for a public hearing stems from 40 CFR 124.12(a)(1): "The Director shall hold a public hearing whenever he or she finds, on the basis of requests, *a significant degree of public interest* in a draft permit..." [emphasis added]

EPA has taken considerable pains to retain its discretion to determine whether a public hearing is appropriate. In *In re Sierra Pacific Industries*, (16 EAD \_\_\_, July 18, 2013), the EPA Environmental Appeals Board (EAB) described in some detail the multifactor analysis that would support denial of a hearing request based on a determination that requests did not constitute "a significant degree of public interest." We suggest the following revisions to this section to give the APCO the discretion to determine whether there is significant public interest in the draft permit to warrant a public hearing:

If a person may requests a public hearing pursuant to the provisions of District Rule 1302(D)(3)(d). If the APCO finds, on the basis of requests, a significant degree of public interest in the draft permit, the APCO shall hold a public hearing and notify the appropriate agencies and the general public using the procedures set forth in District Rule 1302(D)(3)(a). [Derived from 40 CFR 51.166(q)(2)(v) and 40 CFR 124.12(a). See also *In re Sierra Pacific Industries*, 16 EAD \_\_\_, July 18, 2013]

Rule 1302

Rule 1302, Various Sections: Several of the applicability sections are meant to apply to projects that trigger PSD. However, the phrase that is used in the proposed Rule is "the Facility or Modification is or is not a Federal Major Facility or a Federal Major Modification." This could be interpreted to mean that the requirement is applicable to any project occurring at a Federal Major Facility. We believe that the intent is to apply the requirement to any project that results in a new Federal Major Facility or a Federal Major Modification.

Rule 1302, Section B.1.a.v (Prevention of Significant Deterioration Analysis) would require submittal of an approved modeling protocol before an application for a project subject to PSD review could be determined to be complete. The language currently proposed would require the modeling protocol to be approved by the APCO, EPA, and, if applicable, the Federal Land Manager(s) (FLM) of any potentially impacted area. While we understand and agree with the importance of consulting with EPA and the affected FLM(s) prior to undertaking an ambient air quality analysis for a project that is subject to PSD review, in our experience it is extremely difficult and time-consuming, if not impossible, to obtain formal EPA approval for a modeling protocol. In addition, the FLMs are responsible for reviewing and commenting on air quality-related values only in the areas for which they are responsible, and should not be responsible for approving all aspects of a modeling protocol. We suggest the following alternative language:

1. A modeling protocol approved by the APCO, ~~USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area that is consistent with the requirements contained in the most recent edition of USEPA's "Guideline on Air Quality Models."~~ An applicant is encouraged to consult with the USEPA and, if applicable, the Federal Land Manager(s) of any potentially impacted area, in preparing the protocol. If the APCO determines that the USEPA guideline model is inappropriate for use, the APCO may designate an alternative model only after allowing for public comments and only with the concurrence of the CARB or the USEPA; and...

Rule 1302 (C)(3)(b)(iii) would require California Air Resources Board (CARB) and USEPA approval of the offset package before the offsets could be used. As discussed above, we have found it very difficult and time-consuming to obtain formal USEPA approval for submittals. Rather than requiring CARB or EPA approval, we suggest that these agencies be provided with an opportunity to object, with the result that the permit process goes forward if those agencies fail to act:

- (iii) After determining that the Offsets are real, enforceable, surplus, permanent and quantifiable and after any permit modifications required pursuant to District Rule 1305 or Regulation XIV have been made, the APCO shall approve the use of the Offsets.
  - a. For a Federal Major Facility as defined in District Rule 1310(C)(6) or Federal Major Modification as defined in District Rule 1310 (C)(7) and which is located in a Federal nonattainment area, the APCO's approval

~~shall be subject to the approval of CARB and USEPA during the comment period required pursuant to subsection (D)(2) below shall not approve the proposed Offset Package if EPA or CARB objects to the portion of the Offset Package that provides offsets for nonattainment pollutants and their precursors during the comment period.~~

b. For all other Facilities or Modifications subject to this provision the APCOs approval shall be subject to the approval of CARB shall not approve the proposed Offset Package if CARB objects to the Offset Package during the comment period required pursuant to subsection (D)(2) below.

Rule 1302, Section D.3.d (Permit Issuance Procedure, Public Review and Comment) sets forth a requirement to hold a public hearing. Please see the discussion above under Rule 1600. We suggest the following change to this section:

(d) ~~If the APCO finds, on the basis of requests, a significant degree of public interest in the draft permit, the APCO shall, if requested pursuant to the provisions provided for in the published notice, hold a public hearing regarding the proposed preliminary determination.~~

#### NSR Flow Chart

We believe that there are some minor errors in the NSR flowchart, as outlined below.

1. There is a step missing in the BACT evaluation stage (between Item 7 and Item 8). Rule 1303(A)(3) requires BACT for any new unit at a facility with emissions > 25 TPY.
2. The offsets analysis appears to take the evaluator through unnecessary steps. We recommend including a citation to the applicability requirement that is triggered by each answer; this will help with interpreting the flowchart.
  - a. If the answer to Item 8 is "yes," offsets are required by 1303(B)(1); skip Items 9 and 10 and go straight to Item 11 to determine whether the exception in 1303(C) applies.
  - b. If the answer to Item 8 is "no," continue to Item 9.
  - c. If the answer to Item 9 is "yes," offsets are required by 1303(B)(2); skip Item 10, and go straight to Item 11 to determine whether the exception in 1303(C) applies.
  - d. If the answer to Item 9 is "no," continue to Item 10 and determine whether netting (SERS) was used, and if so evaluate whether it affected the offset analysis.
  - e. If the changes suggested above are made, then a "no" answer to Item 10 will mean that offsets weren't triggered, and the analyst should skip Item 11 and proceed to Item 12.

Toxics Flow Chart

We believe that the contemporaneous risk reduction analysis is in the wrong place in the sequence. It should occur before the Cancer Burden, Significant Risk, and Significant Health Risk values are determined.

Also, cancer burden is a dimensionless number, not a risk. The District's threshold for unacceptable burden is 0.5, not 1 (or 1 in a million).

Again, we appreciate the opportunity to comment. If you have any questions or wish to discuss our comments further, please do not hesitate to call.

Attachment

Responses to comments of G. Rubenstein dated June 6, 2016

*Appendices have been omitted from the comment memo for brevity of the staff report. Copies of the appendices are available upon request and will be included in the Rule Archive.*

**3-1 Comment:** Rule 1600(D)(3)(d)(i) – We are concerned that this provision may be overly permissive and could allow project opponents to request a public hearing simply for the sake of delaying a project.

**Response:** 40 CFR 51.166(q)(2)(v) is silent on the degree of discretion provided to the APCO as to whether to schedule a public hearing. While it is true that 40 CFR 124.12(a)(1) does allow discretion for the APCO to determine if there is a “significant degree of public interest” and only hold a hearing when the issues rise to that level, 40 CFR 70.7(h) and (h)(4) have previously been interpreted by USEPA Region IX to require a public hearing to be held whenever a request is received (See language mandated by USEPA in District Rule 1207(A)(1)(d)). District requested clarification from USEPA and was informed that 42 U.S.C. §7475(a)(2) (FCAA §165(a)(2)) specifically requires the opportunity for a hearing on the air quality impact of the New or Modified Facility, alternatives to the Facility, control technology requirements and other appropriate considerations. They also noted that recently EPA’s environmental appeals board has remanded cases where USEPA denied a public hearing based upon the “significant degree of public interest” rationale (see: [https://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/PSD%20Permit%20Appeals%20\(CAA\)/1432397D2DE2B8F885257BAC005D9283/\\$File/Remanding%20In%20part%20and%20Denying%20Review%20in%20Part....pdf](https://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/PSD%20Permit%20Appeals%20(CAA)/1432397D2DE2B8F885257BAC005D9283/$File/Remanding%20In%20part%20and%20Denying%20Review%20in%20Part....pdf)). Given this USEPA has indicated that the bar for a hearing is now low enough such that practically any request will mandate that such hearing occur.

The public hearing requirement is not expected to cause undue delay of the issuance of a permit. A 30 day notice is required (see Proposed 1302(D)(3)(a)(i)). Since a hearing is requested by commentators and is held before the APCO (as the permit issuing body) or his/her designee the District expects that the permit issuance will already be slightly delayed due to the necessity to respond to comments received. Once the hearing is held any comments would need to be incorporated into the responses to comments and if substantive changes are made to the permit as a result the entire thing would need to be re-noticed. The District expects such substantive changes in response to comments to be the exception rather than the rule.

**3-2 Comment:** Various Sections Rule 1302 – Several of the applicability sections are meant to apply to projects that trigger PSD. However the phrase that is use in the proposed Rule is “the Facility or Modification is or is not [sic] a Federal Major Facility or a Federal Major Modification. This could be interpreted to mean that the requirement is applicable to any project occurring at a Federal Major Facility.

**Response:** Rule 1302 is primarily the verbal representation of a checklist or flow chart. The substantive requirements are contained elsewhere in the regulations, either specifically or adopted by reference, and thus would control if a particular requirement such as PSD is applicable. All permit activity would need to at least determine if a particular requirement is applicable using the applicability rules for that specific requirement. In the case of PSD a project at a Federal Major Facility, just like any other project, would need to determine if PSD applied

or not. If it wasn't a New Federal Major Facility or a Federal Major Modification then PSD clearly wouldn't apply and the project would go on to the next step with no further analysis needed.

**3-3 Comment:** Rule 1302(B)(1)(a)(v) – While we understand and agree with the importance of consulting with EPA and the affected FLM(s) prior to undertaking an ambient air quality analysis for a project that is subject to PSD review in our experience it is extremely difficult and time-consuming, if not impossible to obtain formal EPA approval for a modeling protocol.

**Response:** Given the expressed difficulties in obtaining approval of such protocols prior to the issuance of the preliminary determination the District will revise this section to require APCO approval, notification of EPA and FLM(s), and consistency with the most recent USEPA modeling guidance. The District feels that such notification as well as the public comment/other agency review process will provide adequate time for EPA and/or the FLM(s) to object to modeling protocol if necessary. Language encouraging consultation is inappropriate for direct inclusion in the rule however it will be encouraged during the application and analysis process.

**3-4 Comment:** Rule 1302(C)(3)(b)(iii) – Would require California Air Resources Board and USEPA approval of the offset package before the offsets could be used. As discussed above, we have found it very difficult and time-consuming to obtain formal USEPA approval for submittals.

**Response:** Please note that the language cited is currently in District Rule 1302(C)(5)(b)(iii). Since such language was already in the District's New Source Review rule prior to December 30, 2002 it is subject to the provisions of the "Protect California Air Act of 2003" (Health & Safety Code §§42500 et seq.). Health and Safety Code 42504 in effect prohibits any change to New Source Review provisions which are less stringent than those currently in effect as of December 30, 2002 without substantive findings.

The current language has worked well and the District does not expect this to change as a result of the proposed amendments which merely move this requirement to another section of the rule.

**3-5 Comment:** Rule 1302(D)(3)(d) – Sets forth a requirement to hold a public hearing. Please see the discussion above under Rule 1600.

**Response:** See response to comment 3-1.

**3-6 Comment:** Minor errors in the flowcharts.

**Response:** Please note that the flow charts are included for informative guidance and are NOT a part of the rule(s). Legally the rules, not the flow charts, will control. As mentioned in responses to prior comments the District will revise and adjust the flowcharts to include necessary changes. The District fully expects these flowcharts to undergo modification for clarity and ease of use over time.

**Appendix “D”**  
**California Environmental Quality Act**  
**Documentation**

1. NOE San Bernardino County (Draft)
2. NOE Riverside County (Draft)

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## NOTICE OF EXEMPTION

**TO:** County Clerk  
San Bernardino County  
385 N. Arrowhead, 2<sup>nd</sup> 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:** Amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration*.

**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 Federal Clean Air Act (FCAA) requires that states/local air districts adopt a preconstruction review program for all new and modified stationary sources of pollutants for which their jurisdiction has been classified nonattainment for the Federal Ambient Air Quality Standards (FAAQS). This review applies to “Major” sources of nonattainment air contaminants under the “New Source Review” or “Nonattainment New Source Review” (NSR or NANSR) and is implemented via of Regulation XIII – *New Source Review*. The FCAA also requires that a preconstruction review be performed on certain large stationary sources of attainment air pollutants to ensure that degradation of the air quality does not occur in areas which are currently in compliance with the FAAQS. This program is commonly referred to as “Prevention of Significant Deterioration” (PSD) and has historically been performed in the MDAQMD by the USEPA Region IX.

USEPA has recently requested that the MDAQMD adopt rules and regulation such that they can be delegated the authority to implement the PSD preconstruction review process. At the same time USEPA is requiring the MDAQMD rules involving NANSR provide public notice for a significant number of so called “minor” permitting activities. Furthermore, the Federal Operating Permit Program (Title V Program) contains provisions for “Enhanced NSR” which would, if approved by USEPA, allow NANSR, PSD and Title V permits and permit amendments to be issued simultaneously.

The proposed amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration* are designed to allow USEPA to delegate PSD authority, adjust the noticing requirements of NANSR to comply with recent USEPA directives regarding the noticing of “minor” source permitting activities, and to allow the MDAQMD to request Enhanced NSR designation such that permitting activities for facilities subject to Title V may be performed concurrently. Additionally the proposed amendments and new rule adoption will clarify some provisions, provide appropriate cross-citations, and correct some minor discrepancies with USEPA requirements contained in the current rules.

**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 Regulation XIII and proposed new Rule 1600 are exempt from CEQA Review because the proposed action is the amendment/adoption of procedural rules designed to protect the environment. Specifically, the proposed amendment of Regulation XIII increases protections in that it provides for additional agency and public review of a greater number of new or modified Facilities. In addition, the amendments and proposed new Rule 1600 are designed to allow the delegation of a currently existing program, PSD, from USEPA to the District will all the specific requirements and protections which currently exist intact. Therefore, there is no potential that the proposed amendments and new rule might cause the release of additional air contaminants or create any other adverse environmental impacts, a Class 8 Categorical Exemption (14 Cal. Code Reg. §15308) applies.

**LEAD AGENCY CONTACT PERSON:** Eldon Heaston **PHONE:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_ **TITLE:** Executive Director **DATE:** 10/26/2015

**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

X MDAQMD Clerk of the Governing Board

**PROJECT TITLE:** Amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration*.

**PROJECT LOCATION – SPECIFIC:** San Bernardino County portion of the Mojave Desert Air Basin and Palo Verde Valley portion of Riverside County.

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USEPA has recently requested that the MDAQMD adopt rules and regulation such that they can be delegated the authority to implement the PSD preconstruction review process. At the same time USEPA is requiring the MDAQMD rules involving NANSR provide public notice for a significant number of so called “minor” permitting activities. Furthermore, the Federal Operating Permit Program (Title V Program) contains provisions for “Enhanced NSR” which would, if approved by USEPA, allow NANSR, PSD and Title V permits and permit amendments to be issued simultaneously.

The proposed amendments to Regulation XIII – *New Source Review* and proposed new Rule 1600 – *Prevention of Significant Deterioration* are designed to allow USEPA to delegate PSD authority, adjust the noticing requirements of NANSR to comply with recent USEPA directives regarding the noticing of “minor” source permitting activities, and to allow the MDAQMD to request Enhanced NSR designation such that permitting activities for facilities subject to Title V may be performed concurrently. Additionally the proposed amendments and new rule adoption will clarify some provisions, provide appropriate cross-citations, and correct some minor discrepancies with USEPA requirements contained in the current rules.

**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 Regulation XIII and proposed new Rule 1600 are exempt from CEQA Review because the proposed action is the amendment/adoption of procedural rules designed to protect the environment. Specifically, the proposed amendment of Regulation XIII increases protections in that it provides for additional agency and public review of a greater number of new or modified Facilities. In addition, the amendments and proposed new Rule 1600 are designed to allow the delegation of a currently existing program, PSD, from USEPA to the District will all the specific requirements and protections which currently exist intact. Therefore, there is no potential that the proposed amendments and new rule might cause the release of additional air contaminants or create any other adverse environmental impacts, a Class 8 Categorical Exemption (14 Cal. Code Reg. §15308) applies.

**LEAD AGENCY CONTACT PERSON:** Eldon Heaston **PHONE:** (760) 245-1661

**SIGNATURE:** \_\_\_\_\_ **TITLE:** Executive Director **DATE:** 10/26/2015

**DATE RECEIVED FOR FILING:**

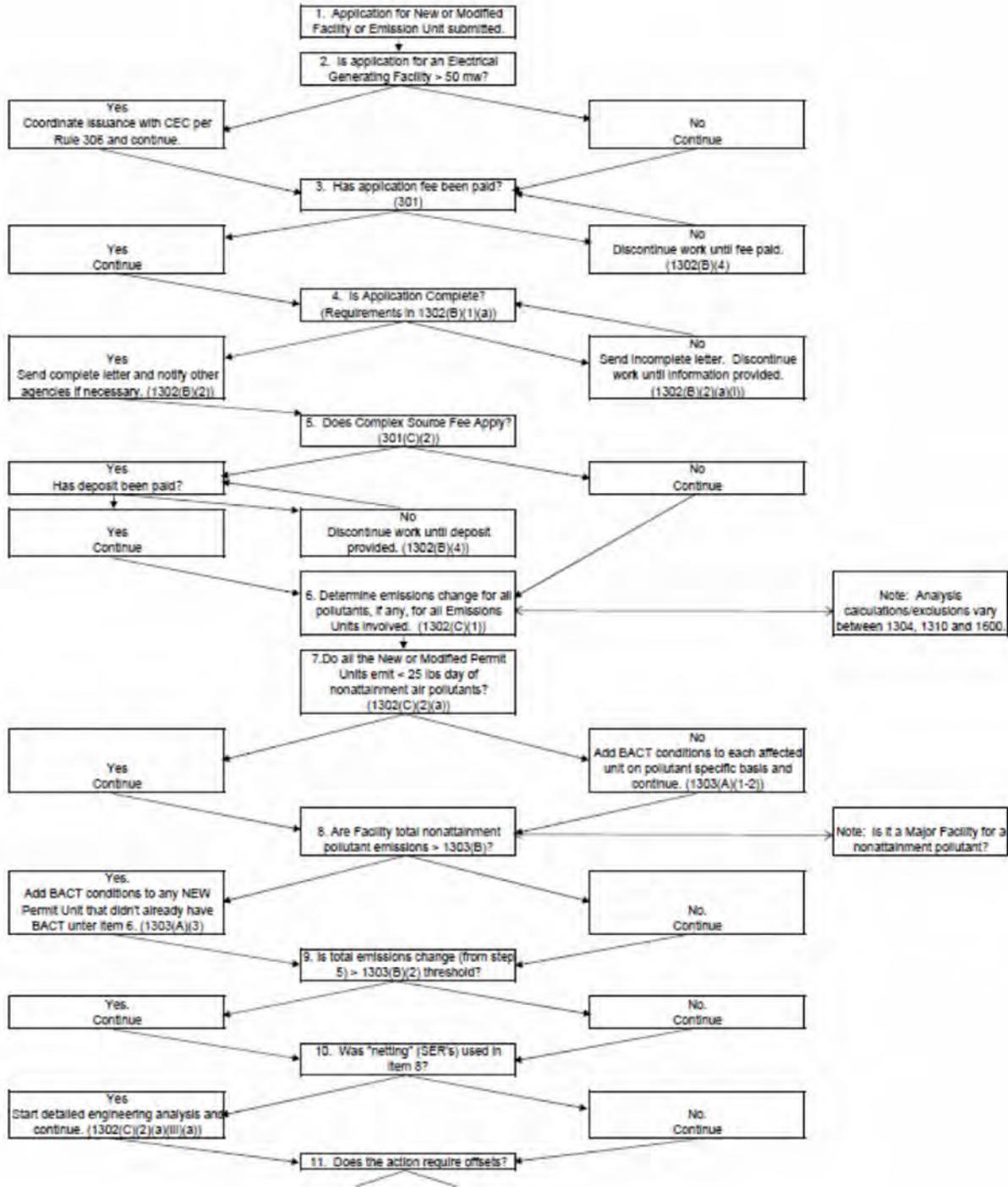
## **Appendix “E”**

### **NSR Flow Charts**

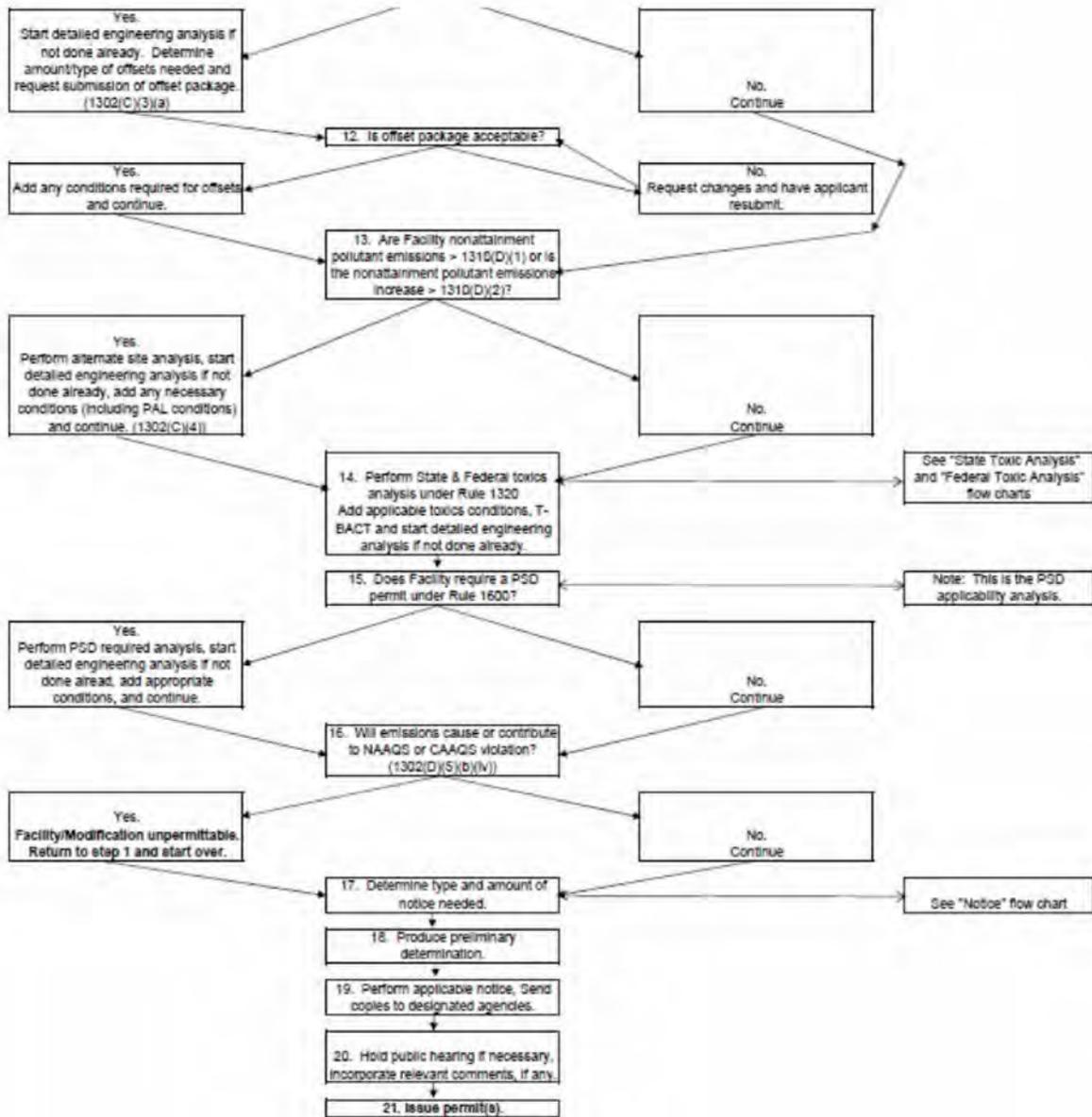
The following flow charts show the intended analysis path for Regulation XIII as generally set forth in proposed amended Rule 1302(C). These flow charts are for information purposes only and should not be relied upon in determining applicability or requirements. In case of inconsistency between the charts and the rules the District Rule language shall control.

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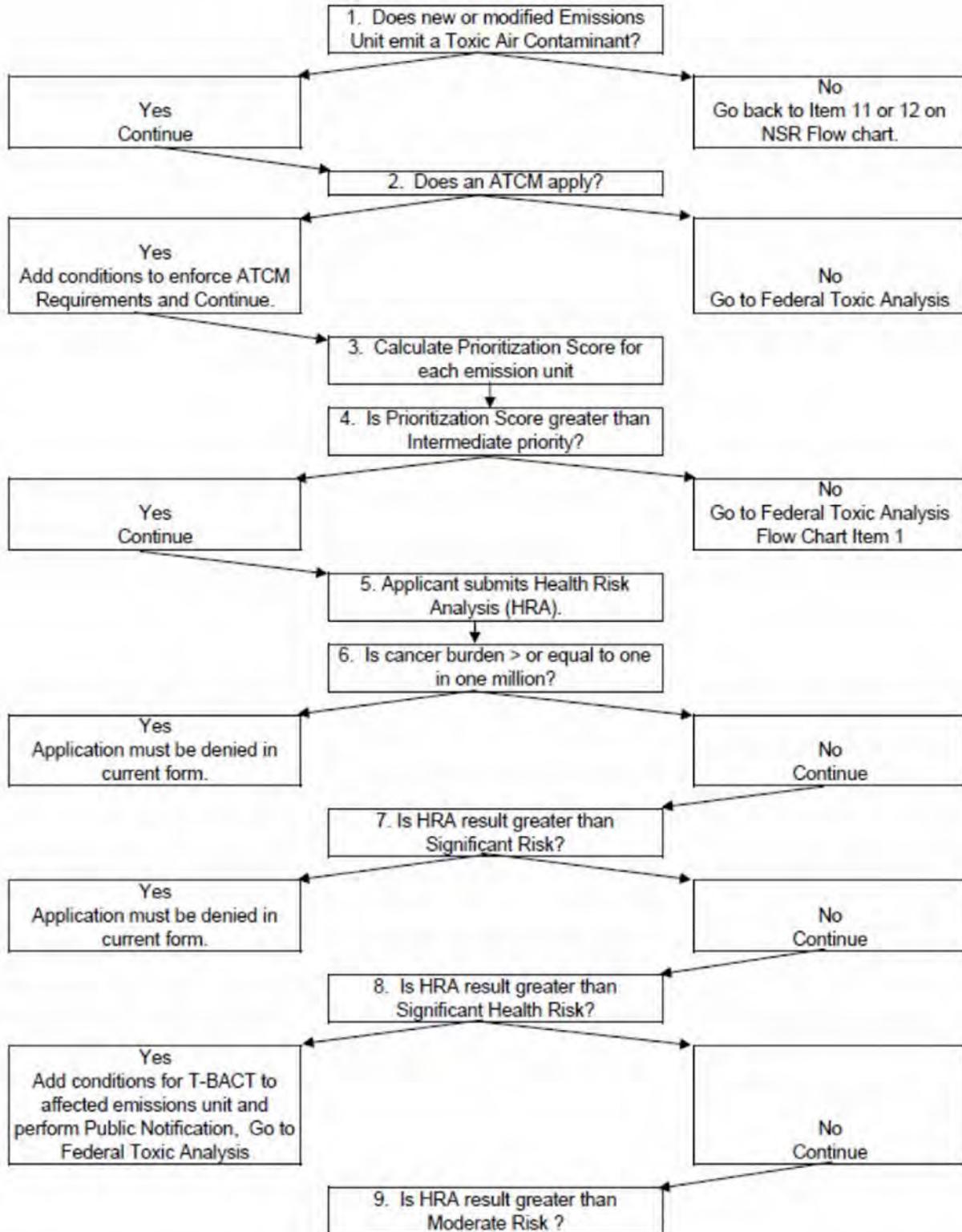
### NSR Flow Chart (Proposed Amended)



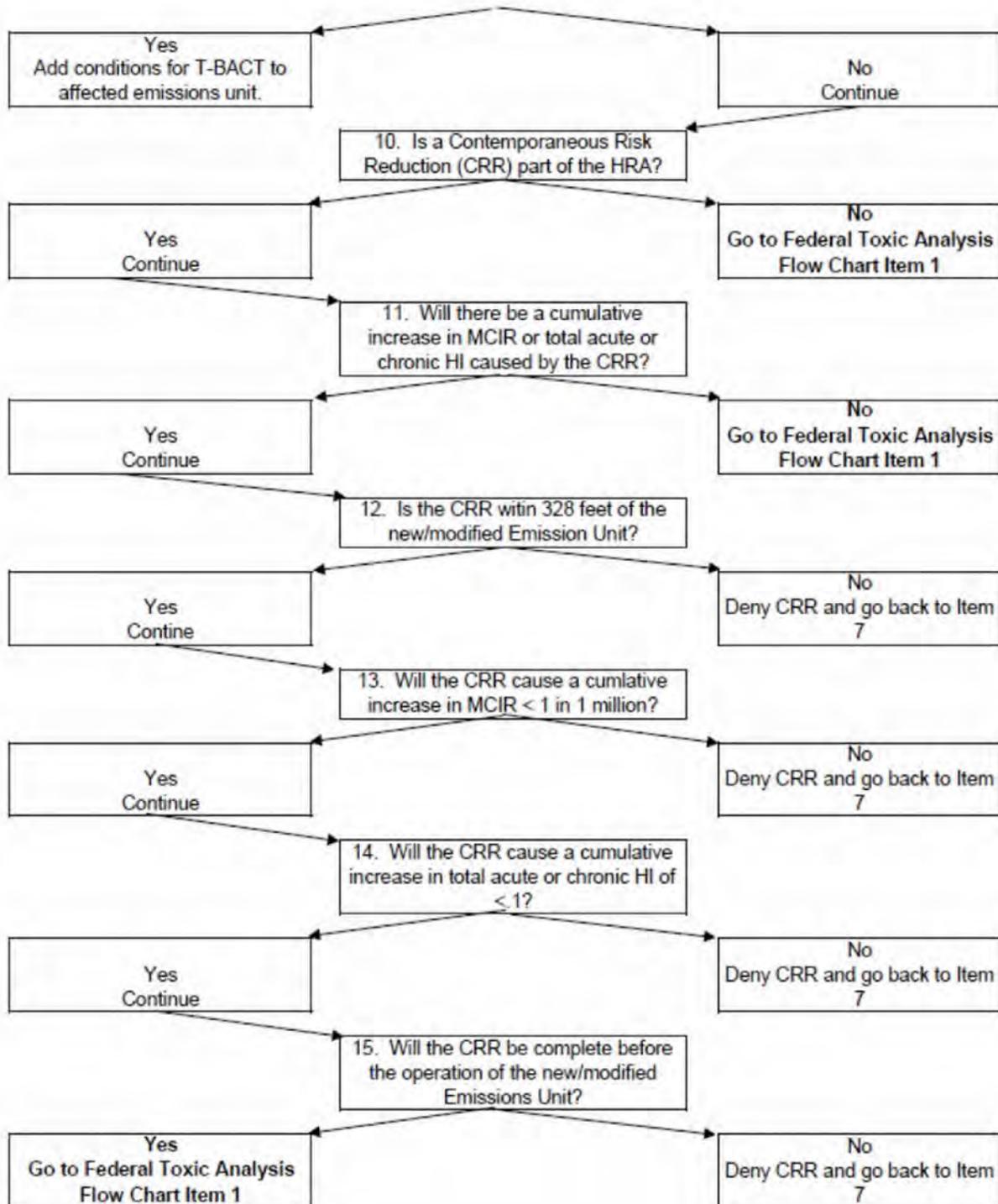
### NSR Flow Chart (Proposed Amended)



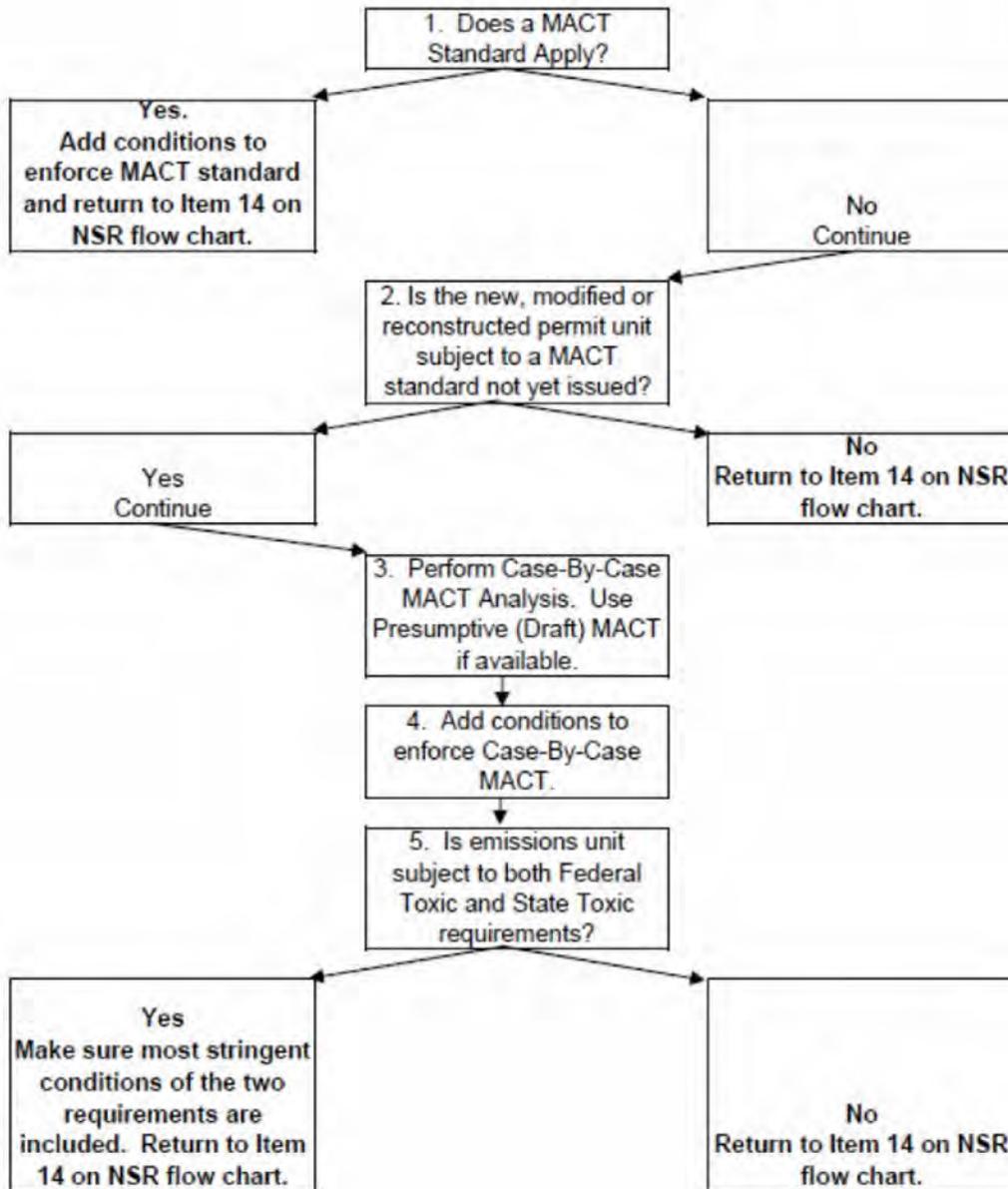
## State Toxics Analysis



## State Toxics Analysis

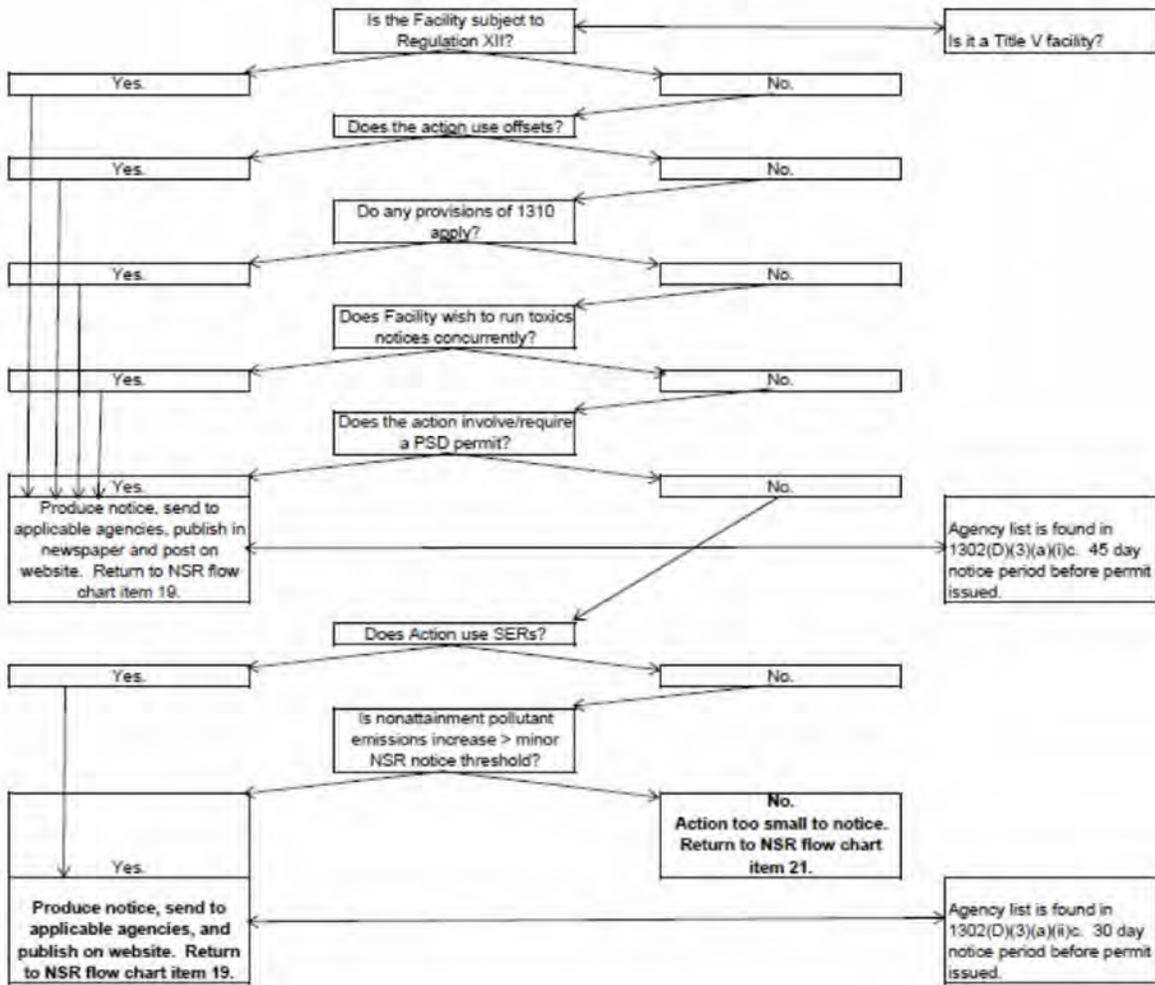


## Federal Toxics Analysis



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## Notice Type Analysis



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## Appendix “F” Bibliography

The following documents were consulted in preparation of this staff report:

### Cases:

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*Sierra Club v. Environmental Protection Agency* (D.C. Cir, 2013) 705 F3d 458

### Federal Statutes:

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42 U.S.C. §7410(a)(2)(C)

42 U.S.C. §7410(l)

42 U.S.C. §7411

42 U.S.C. §7412

42 U.S.C. §§7470 et. seq

42 U.S.C. §7475

42 U.S.C. §7479

42 U.S.C. §7502(b)(6)

42 U.S.C. §7503

42 U.S.C. §7511a(a)(2)(C)

42 U.S.C. §7511a(b)

42 U.S.C. §§7651 et.seq

42 U.S.C. §§7661a et. seq

42 U.S.C. §§7671 et. seq

42 U.S.C. §7671a

### State Statutes:

Government Code §§6250 et. seq

Health and Safety Code §§39000 et. seq

Health and Safety Code §40001(a)

Health and Safety Code §40702

Health and Safety Code §§40725-40728

Health and Safety Code §40727

Health and Safety Code §40727.2

Health and Safety Code §§40910 et. seq

Health and Safety Code §40920.6

Health and Safety Code §§42300 et. seq

Health and Safety Code §42302.3

Health and Safety Code §§42500 et. seq

Health and Safety Code §42504

Health and Safety Code §42504(b)

Health and Safety Code §44362

Federal Regulations:

40 CFR 51, Appendix S  
40 CFR 51, Appendix V, 2.0  
40 CFR 51.100(s)  
40 CFR 51.102  
40 CFR 51.160 et. seq  
40 CFR 51.160  
40 CFR 51.161  
40 CFR 51.165  
40 CFR 51.166  
40 CFR 51.300 et. seq  
40 CFR 51.301  
40 CFR 51.307  
40 CFR 52.21  
40 CFR 52.220(c)(68)(i)  
40 CFR 52.220(c)(70)(i)(A)  
40 CFR 52.220(c)(87)(iv)(A)  
40 CFR 52.220(c)(87)(v)(A)  
40 CFR 52.220(c)(239)(i)(A)  
40 CFR 52.232(a)(13)(i)(A)  
40 CFR 63.43  
40 CFR 70.3  
40 CFR 70.5  
40 CFR 70.6  
40 CFR 70.7  
40 CFR 70.7(d)(5)  
40 CFR 70.8  
40 CFR 81.301  
40 CFR 81.305  
40 CFR 124.1 et. seq (Subpart A)  
40 CFR 124.3  
40 CFR 124.10  
40 CFR 124.41 et. seq (Subpart C)

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14 Cal. Code Regs. §15308  
17 Cal. Code Regs. §94508(a)(90)

Air District Rules, Regulations, and Rule Adoption Documents:

Clark County Nevada; *Proposed Revision to the Clark County Part of the Nevada State Implementation Plan: Minor Source New Source Review Program Rule Adoptions and Revisions*; January 29, 2009.  
BAAQMD; Regulation 2, Rule 1 - *General Requirements* (as amended April 18, 2012)  
BAAQMD; Regulation 2, Rule 2 – *New Source Review* (as amended June 15, 2005)  
BAAQMD; Regulation 2, Rule 3 – *Power Plants* (as adopted December 19, 1979)

BAAQMD; Regulation 2, Rule 5 – *New Source Review of Toxic Air Contaminants* (as amended January 6, 2010)  
 BAAQMD; Regulation 2, Rule 6 – *Major Facility Review* (as amended April 16, 2003)  
 MDAQMD; Rule 201 – *Permit to Construct*  
 MDAMQD; Rule 203 – *Permit to Operate*  
 MDAQMD; Rule 219 – *Equipment Not Requiring a Permit*  
 MDAQMD; Rule 301 – *Permit Fees*  
 MDAQMD; Rule 1301 - *Definitions*  
 MDAQMD; Rule 1303 – *Requirements*  
 MDAQMD; Rule 1306 – *Electrical Energy Generating Facilities*  
 MDAQMD; Rule 1310 – *Federal Major Facilities and Federal Major Modifications*  
 MDAQMD; Rule 1207 – *Notice and Comment*  
 SCAQMD; Regulation XIII – *New Source Review*  
 SCAQMD; Regulation XVII – *Prevention of Significant Deterioration*  
 SCAQMD; Rule 212 - *Standards For Approving Permits And Issuing Public Notice* (as amended June 5, 2015).  
 SMAQMD; Rule 202 – *New Source Review* (as amended 8-23-12)  
 SMAQMD; Rule 203 – *Prevention of Significant Deterioration* (as amended 1-27-11)  
 SMAQMD; Rule 214 – *Federal New Source Review* (as amended 8-23-12)  
 SMAQMD; Rule 217 – *Public Notice Requirements for Permits* (as amended 8-23-12)  
 SMAQMD; *Staff Report Rule 202, New Source Review, Rule 214, Federal New Source Review, Rule 217, Public Notice Requirements For Permits, Attachment C*; July 23, 2012

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57 FR 13498, 13532, April 16, 1992; *General Preamble*  
 57 FR 55620, 55624, November 25, 1992; *Nitrogen Oxides Supplement to General Preamble*  
 USEPA, *Clarification of Prevention of Significant Deterioration (PSD) Guidance for Modeling Class I Area Impacts*; Memo from John S. Seitz, Director Office of Air Quality Planning and Standards; October 19, 1992  
<https://www.epa.gov/sites/production/files/2015-07/documents/class1.pdf> )  
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<https://www3.epa.gov/ttn/oarpg/t5/memoranda/nescaum.pdf> )  
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<https://www3.epa.gov/ttn/naaqs/aqmguide/collection/nsr/flmnot.pdf> )

- USEPA; *Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3)*; Memo from Janet McCabe, Principal Deputy Assistant Administrator, Office of Air and Radiation; April 17, 2012  
[https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20120417\\_mccabe\\_minor\\_nsr\\_program.pdf](https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20120417_mccabe_minor_nsr_program.pdf)
- USEPA; *New Source Review Workshop Manual – Prevention of Significant Deterioration and Nonattainment Area Permitting*; Draft October 1990  
<https://www.epa.gov/sites/production/files/2015-07/documents/1990wman.pdf>
- USEPA; *Notification to Federal Land Manager Under Section 165 (d) of the Clean Air Act*; Memo from David G. Hawkins, Assistant Administrator for Air, Noise, and Radiation; March 19, 1979 (<https://www.epa.gov/sites/production/files/2015-07/documents/fdlndmgr.pdf>)
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<https://www.epa.gov/sites/production/files/2015-07/documents/prir2prm.pdf>
- USEPA; *PSD and Title V Permitting Guidance for Greenhouse Gases*; March 2011 (EPA-457/B-11-001) Note: Guidance superseded by court decision in *Utility Air Regulatory Group v. EPA* but contains cross references and logistical reasoning that is applicable to both PSD and Title V programs in general.
- USEPA; *Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the use of “Letter Notices”*; Policy Memorandum from Janet McCabe, Deputy Assistant Administrator, Office of Air & Radiation; April 6, 2011  
[https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20110406\\_mccabe\\_regional\\_consistency\\_admin\\_requirements.pdf](https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20110406_mccabe_regional_consistency_admin_requirements.pdf)
- USEPA; *Response to Request for Guidance on Use of Pre-1990 ERC’s and Adjusting for RACT at Time of Use*; Policy Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards; August 25 1994  
<https://www.epa.gov/sites/production/files/2015-07/documents/pre-1990.pdf>
- USEPA; *Timely Processing of Prevention of Significant Deterioration (PSD) Permits when EPA or a PSD-Delegated Air Agency Issues the Permit*; Stephen D. Page, Office of Air Quality Planning and Standards; October 15, 2012  
<https://www.epa.gov/sites/production/files/2015-07/documents/timely.pdf>
- USEPA, *Title V Implementation Q&A, Region IX*; December 1995  
[https://www.epa.gov/sites/production/files/2015-08/documents/q\\_ar92.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/q_ar92.pdf)

**Rule & Program Approval Documentation:**

- 77 FR 32493, June 1, 2012; *Approval of Air Quality Implementation Plans; California; San Joaquin Valley Unified Air Pollution Control District; Prevention of Significant Deterioration (Proposed Rule)*
- 77 FR 65305, October 26, 2012; *Approval of Air Quality Implementation Plans; California; San Joaquin Valley Unified Air Pollution Control District; Prevention of Significant Deterioration (Final Rule)*
- 79 FR 21424, April 16, 2014; *Partial Approval and Partial Disapproval and Promulgation of Air Quality Implementation Plans: South Dakota; Revisions to South Dakota Administrative Code; Permit: New and Modified Sources (Proposed Rule).*

79 FR 36419, June 27, 2014; *Partial Approval and Partial Disapproval and Promulgation of Air Quality Implementation Plans: South Dakota; Revisions to South Dakota Administrative Code; Permit: New and Modified Sources (Final Rule)*.

80 FR 14044, March 18, 2015; *Revisions to Air Plan; Arizona; Stationary Sources; New Source Review (Proposed Rule)*.

80 FR 44001, July 24, 2015; *Approval of Air Plans; California; Multiple Districts; Prevention of Significant Deterioration (Proposed Rule)*.

80 FR 52236, August 28, 2015; *Revisions to California State Implementation Plan; Bay Area Air Quality Management District; Stationary Sources Permits (Proposed Rule)*.

80 FR 69880, November 12, 2015; *Approval of Air Plans; California; Multiple Districts; Prevention of Significant Deterioration (Final Rule)*

USEPA; *EPA Evaluation of Clark County Minor Source Emissions*; Memorandum from Laura Yannayon, EPA Region 9, Air Division, Permits Office; July 10, 2012

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USEPA, *Technical Support Document for EPA's Notice of Proposed Rulemaking for the California State Implementation Plan San Joaquin Valley Unified Air Pollution Control District Rule 2410 – Prevention of Significant Deterioration*; May 2012.

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

*AGENDA ITEM 11*

**DATE:** June 27, 2016

**RECOMMENDATION:** Adopt a Resolution to authorize the District to participate in the Public Agencies Post-Employment Benefits Trust administered by Public Agency Retirement System (PARS); Authorize a deposit up to \$1,000,000; Appoint the Executive Director/APCO as the Plan Administrator; and Authorize the Executive Director/APCO to execute the documents to implement the program.

**SUMMARY:** This item will adopt a Resolution to authorize the District to participate in the Public Agencies Post-Employment Benefits Trust administered by Public Agency Retirement System (PARS); Authorize a deposit up to \$1,000,000; Appoint the Executive Director/APCO as the Plan Administrator; and Authorize the Executive Director/APCO to execute the documents to implement the program.

**CONFLICT OF INTEREST:** Public Agency Retirement System (PARS), its Directors and Officers; Governing Board members and officers of the MDAQMD.

**BACKGROUND:** Public Agency Retirement System (PARS), the Administrator of the District's OPEB Trust, has notified the District that they are now able to expand the offerings to include a trust that will allow pre-funding of the District's **future pension obligations**. This is their Pension Rate Stabilization Program ("PRSP"), explained in more detail in the "Additional Information" attached to this item.

**REASON FOR RECOMMENDATION:** The Governing Board action is required to adopt the Resolution, authorize establishing this trust, and transfer of funds.

**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 June 6, 2016.

**FINANCIAL DATA:** No increase in appropriation is anticipated. This action will authorize a transfer up to \$1,000,000 from the General Fund designated reserve for Retirement Reserves.

**PRESENTER:** Jean Bracy, Deputy Director - Administration

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**ADDITIONAL INFORMATION  
PENSION RATE STABILIZATION PROGRAM**

*AGENDA ITEM 11*

**PAGE 2**

The purposes of the **Pension Rate Stabilization Program** are outlined below. In brief, funds deposited in the trust are set aside to pre-fund the liabilities associated with the District's obligation for future retirement benefits for District employees. The fund is restricted to the extent that withdrawals must satisfy any part associated with funding or providing employer obligations for pension benefits, and costs associated with managing the pension fund. The PARS has a client list of 32 agencies, including special districts.

On November 23, 2009, the Governing Board authorized participation in the *Public Agencies Post-Retirement Health Care Plan Trust*. The irrevocable Trust was established to set aside resources to pre-fund the liabilities associated with the District's Retiree Health Care benefit. In this action the District will **withdraw from** the Health Care Plan Trust and **transfer assets to** an OPEB account established in the name of the District under the "*Public Agencies Post-Employment Benefits Trust*." This **single trust** will manage the pre-funding of both the OPEB and PRSP, and separately handle the investments.

The District is obligated by financial regulation to fund the future liability of employee pension benefits.

GASB Requirements

In 2012 the Government Accounting Standards Board (GASB) issued Statement No. 68, Accounting and Financial Reporting for Pensions. GASB 68 requires that governmental employers that sponsor defined benefit pensions (such as the District's pension program with San Bernardino County Employees Retirement Association, SBCERA) must recognize a **net pension liability** (unfunded accrued liability) on their Statement of Net Position. The net pension liability is the difference between the District's total pension liability (actuarial accrued liability) and actual plan assets. The effects of GASB 68 is reflected on the District's annual audit for June 30, 2015 (page 12 of that report is attached). The District's **net pension liability as of June 30, 2015 is \$7,124,444**. This was determined by SBCERA's actuarial estimates.

Financial Statement Impacts

The **net pension liability** has the appearance of reducing the District's available resources to perform the business of the District. In practice, however, the net pension liability assumes a debt that is payable on the date of the financial report; failing to consider the annual contributions deposited each succeeding year. Nonetheless, the District has a **fiduciary responsibility** to address the net pension liability and make efforts to offset a portion of the liability. A trust for the explicit purpose of offsetting this obligation will have a direct effect on the District's presentation of net pension liability on the District's financial statements. As investment earnings increase the net pension liability will decrease.

Actuarial Assessments

Calculating the District's net pension liability is very complicated. **Actuarial assessments** calculate future benefits on a 30 year horizon for present and past employees who are expected

**ADDITIONAL INFORMATION  
PENSION RATE STABILIZATION PROGRAM**

*AGENDA ITEM 11*

**PAGE 3**

to retire in the future. The assessment calculates the estimated **dollars required** to be invested now to insure sufficient resources for the known population to retire in the future. Annually there is a **reconciliation of the assumptions** against what really happened. This reconciliation generally affects the **unfunded liability** which is calculated through the evaluation and may impact the District's required contribution.

SBCERA Pool

The particular characteristic of the SBCERA fund is that the District is "pooled" with fifteen other small or medium sized organizations. The investment gains and losses are shared across these member agencies. If the District were to deposit \$1,000,000 into the pool, the effect for the District's liability would be diluted against the other members in the pool. If the District used the funds to "prepay" a year of liability, the savings have been estimated at \$30,000 to \$50,000. Earnings on \$500,000 invested by the District in the OPEB Trust have earned an average of 5.8% for five years. Estimates indicate that **investment earnings** in the Trust will exceed the savings estimated by a prepayment.

Funding

The Governing Board has designed \$1,000,000 (one million dollars) in the General Fund reserved for retirement liability. The action before the Board is to authorize a **transfer up to** the full \$1,000,000. Staff recommends the first transfer of \$500,000 as soon after July 1, 2016 as practicable. The Investment Guidelines Document was approved at the May 23, 2016 meeting of the Governing Board. These guidelines govern the investment schemes available to the District for this trust.

Trust Characteristics

The recommended action will terminate the District's participation in the *Public Agencies Post-Retirement Health Care Plan Trust* and transfer those assets to the *Public Agencies Post-Employment Benefits Trust*. The assets of each program (OPEB and PRSP) are pooled for investment earnings but managed separately for their respective risk tolerance levels.

Resources

The following documents are part of this agenda item:

- A Resolution of the Governing Board approving participation in the PARS Public Agencies Post-Employment Benefits Trust
- PARS Agreement for Administrative Services (amending the name of the program being administered)
- MDAQMD Reconciliation of Balance Sheet of Government Funds to the Statement of Net Position (page 12) June 30, 2015
- PARS Pension Rate Stabilization Program Flyer

**ADDITIONAL INFORMATION  
PENSION RATE STABILIZATION PROGRAM**

*AGENDA ITEM 11*

**PAGE 4**

Authorization

This action will designate the position of Executive Director/APCO as the Plan Administrator and authorize execution of documents to establish the Pension Rate Stabilization Trust and transfer of funds as soon as practicable.

RESOLUTION \_\_\_\_\_

1           **A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR**  
2 **QUALITY MANAGEMENT DISTRICT APPROVING THE ADOPTION OF THE PUBLIC**  
3 **AGENCIES POST-EMPLOYMENT BENEFITS TRUST ADMINISTERED BY PUBLIC**  
4 **AGENCY RETIREMENT SERVICES (PARS).**

5           On June 27, 2016, on motion by Member [Board Member], seconded by Member [Board  
6 [Member], and carried, the following resolution is adopted:

7           **WHEREAS**, the Mojave Desert Air Quality Management District (the “District”) is currently  
8 participating in the Public Agencies Post-Retirement Health Care Plan Trust for the pre-funding of its  
9 retiree health benefits and other post-employment benefits other than pension benefits (“OPEB”); and

10           **WHEREAS**, the District desires to set aside funds for the purpose of pre-funding its pension  
11 obligation with San Bernardino County Employees Retirement Association (SBCERA) that will be held  
12 in trust for the exclusive purpose of making future contributions of the District’s required pension  
13 contributions and any employer contributions in excess of such required contributions at the discretion of  
14 the District; and

15           **WHEREAS**, PARS has made available the Public Agencies Post-Employment Benefits Trust (the  
16 “Program”) for the purpose of pre-funding both pension obligations and/or OPEB obligations as specified  
17 in the District’s plans, policies and/or applicable collective bargaining agreements; and

18           **WHEREAS**, the District is eligible to participate in the Program, a tax-exempt trust performing  
19 an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as  
20 amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory  
21 provisions of the State of California; and

22           **WHEREAS**, the District can manage the pre-funding of its pension and OPEB obligations in a  
23 single trust under this Program, thereby gaining administrative and cost efficiencies; and

24           **WHEREAS**, the District’s adoption and operation of the Program has no effect on any current or  
25 former employee’s entitlement to post-employment benefits; and

26           **WHEREAS** the terms and conditions of post-employment benefit entitlement, if any, are  
27 governed by contracts separate from and independent of the Program; and  
28

**RESOLUTION \_\_\_\_\_**

1           **WHEREAS**, the District’s funding of the Program does not, and is not intended to, create any  
2 new vested right to any benefit nor strengthen any existing vested right; and

3           **WHEREAS**, the District reserves the right to make contributions, if any, to the Program.

4           **NOW, THEREFORE, BE IT RESOLVED**, that the Governing Board of the MDAQMD adopts  
5 the Public Agencies Post-Employment Benefits Trust, effective June 27, 2016; and

6           **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD appoints the  
7 Executive Director, his/her successor, or his/her designee as the District’s Plan Administrator for the  
8 Program; and

9           **BE IT FURTHER RESOLVED**, that The District’s Plan Administrator is authorized to execute  
10 the PARS legal and administrative documents on behalf of the District and to take whatever additional  
11 actions are necessary to maintain the District’s participation in the Program and to maintain compliance of  
12 any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever  
13 additional actions are required to administer the District’s Program; and

14           **BE IT FURTHER RESOLVED**, that the Governing Board of the MDAQMD authorizes the Plan  
15 Administrator, in accordance with Section 3.3 of the Public Agencies Post-Retirement Health Care Plan  
16 Trust adopted on November 23, 2009, to withdraw from said trust and direct the transfer of assets held in  
17 said trust to the OPEB Account established in the name of the District under the Public Agencies Post-  
18 Employment Benefits Trust.

19           **BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately upon  
20 adoption.

21  
22 **PASSED, APPROVED AND ADOPTED** by the Governing Board of the Mojave Desert Air Quality  
23 Management District by the following vote:

24 AYES:                   MEMBER:

25 NOES:                   MEMBER:

26 ABSENT:               MEMBER:

27 ABSTAIN:              MEMBER:

RESOLUTION \_\_\_\_\_

1 STATE OF CALIFORNIA )

2 COUNTY OF SAN BERNARDINO )

SS:

3 )  
4 I, \_\_\_\_\_, Clerk of the Governing Board of the Mojave Desert Air Quality Management  
5 District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the  
6 same appears in the Official Minutes of said Governing Board at its meeting of **DATE**

7  
8 \_\_\_\_\_  
9 Clerk of the Governing Board,  
Mojave Desert Air Quality Management District.

## AGREEMENT FOR ADMINISTRATIVE SERVICES

This agreement ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2015, between Phase II Systems, a corporation organized and existing under the laws of the State of California, doing business as Public Agency Retirement Services (hereinafter "PARS") and the [Agency Name] ("Agency").

WHEREAS, the Agency has adopted the PARS Public Agencies Post-Employment Benefits Trust for the purpose of pre-funding pension obligations and/or OPEB obligations ("Plan"), and is desirous of retaining PARS as Trust Administrator to the Trust, to provide administrative services.

NOW THEREFORE, the parties agree:

- 1. Services.** PARS will provide the services pertaining to the Plan as described in the exhibit attached hereto as "Exhibit 1A" ("Services") in a timely manner, subject to the further provisions of this Agreement.
- 2. Fees for Services.** PARS will be compensated for performance of the Services as described in the exhibit attached hereto as "Exhibit 1B".
- 3. Payment Terms.** Payment for the Services will be remitted directly from Plan assets unless the Agency chooses to make payment directly to PARS. In the event that the Agency chooses to make payment directly to PARS, it shall be the responsibility of the Agency to remit payment directly to PARS based upon an invoice prepared by PARS and delivered to the Agency. If payment is not received by PARS within thirty (30) days of the invoice delivery date, the balance due shall bear interest at the rate of 1.5% per month. If payment is not received from the Agency within sixty (60) days of the invoice delivery date, payment plus accrued interest will be remitted directly from Plan assets, unless PARS has previously received written communication disputing the subject invoice that is signed by a duly authorized representative of the Agency.
- 4. Fees for Services Beyond Scope.** Fees for services beyond those specified in this Agreement will be billed to the Agency at the rates indicated in the PARS' standard fee schedule in effect at the time the services are provided and shall be payable as described in Section 3 of this Agreement. Before any such services are performed, PARS will provide the Agency with a detailed description of the services, terms, and applicable rates for such services. Such services, terms, and applicable rates shall be agreed upon in writing and executed by both parties.
- 5. Information Furnished to PARS.** PARS will provide the Services contingent upon the Agency's providing PARS the information specified in the exhibit attached hereto as "Exhibit 1C" ("Data"). It shall be the responsibility of the Agency to certify the accuracy, content and completeness of the Data so that PARS may rely on such information without further audit. It shall further be the responsibility of the Agency to deliver the Data to PARS in such a manner that allows for a reasonable amount of time for the Services to be performed. Unless specified in Exhibit 1A, PARS shall be under no duty to question Data received from the Agency, to compute contributions made to the

Plan, to determine or inquire whether contributions are adequate to meet and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, PARS shall not be liable for non performance of Services to the extent such non performance is caused by or results from erroneous and/or late delivery of Data from the Agency. In the event that the Agency fails to provide Data in a complete, accurate and timely manner and pursuant to the specifications in Exhibit 1C, PARS reserves the right, notwithstanding the further provisions of this Agreement, to terminate this Agreement upon no less than ninety (90) days written notice to the Agency.

6. **Records.** Throughout the duration of this Agreement, and for a period of five (5) years after termination of this Agreement, PARS shall provide duly authorized representatives of Agency access to all records and material relating to calculation of PARS' fees under this Agreement. Such access shall include the right to inspect, audit and reproduce such records and material and to verify reports furnished in compliance with the provisions of this Agreement. All information so obtained shall be accorded confidential treatment as provided under applicable law.
7. **Confidentiality.** Without the Agency's consent, PARS shall not disclose any information relating to the Plan except to duly authorized officials of the Agency, subject to applicable law, and to parties retained by PARS to perform specific services within this Agreement. The Agency shall not disclose any information relating to the Plan to individuals not employed by the Agency without the prior written consent of PARS, except as such disclosures may be required by applicable law.
8. **Independent Contractor.** PARS is and at all times hereunder shall be an independent contractor. As such, neither the Agency nor any of its officers, employees or agents shall have the power to control the conduct of PARS, its officers, employees or agents, except as specifically set forth and provided for herein. PARS shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.
9. **Indemnification.** PARS and Agency hereby indemnify each other and hold the other harmless, including their respective officers, directors, employees, agents and attorneys, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of PARS' or Agency's, as the case may be, acts, errors or omissions with respect to the performance of their respective duties hereunder.
10. **Compliance with Applicable Law.** The Agency shall observe and comply with federal, state and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding the administration of the Plan. PARS shall observe and comply with federal, state and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding Plan administrative services provided under this Agreement.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event any party institutes legal proceedings to enforce or interpret this Agreement, venue and jurisdiction shall be in any state court of competent jurisdiction.
12. **Force Majeure.** When a party's nonperformance hereunder was beyond the control and not due to the fault of the party not performing, a party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by such cause, including but not limited to: any incidence of fire, flood, acts of God, acts of terrorism or war, commandeering of material, products, plants or facilities by the federal, state or local government, or a material act or omission by the other party.
13. **Ownership of Reports and Documents.** The originals of all letters, documents, reports, and data produced for the purposes of this Agreement shall be delivered to, and become the property of the Agency. Copies may be made for PARS but shall not be furnished to others without written authorization from Agency.
14. **Designees.** The Plan Administrator of the Agency, or their designee, shall have the authority to act for and exercise any of the rights of the Agency as set forth in this Agreement, subsequent to and in accordance with the written authority granted by the Governing Body of the Agency, a copy of which writing shall be delivered to PARS. Any officer of PARS, or his or her designees, shall have the authority to act for and exercise any of the rights of PARS as set forth in this Agreement.
15. **Notices.** All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of the notices in person or by depositing the notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
  - (A) To PARS: PARS; 4350 Von Karman Avenue, Suite 100, Newport Beach, CA 92660; Attention: President
  - (B) To Agency: [Agency]; [Address]; [City, State, Zip]; Attention: [Plan Administrator]Notices shall be deemed given on the date received by the addressee.
16. **Term of Agreement.** This Agreement shall remain in effect for the period beginning \_\_\_\_\_, 2015 and ending \_\_\_\_\_, 2018 ("Term"). This Agreement may be terminated at any time by giving thirty (30) days written notice to the other party of the intent to terminate. Absent a thirty (30) day written notice to the other party of the intent to terminate, this Agreement will continue unchanged for successive twelve month periods following the Term.
17. **Amendment.** This Agreement may not be amended orally, but only by a written instrument executed by the parties hereto.
18. **Entire Agreement.** This Agreement, including exhibits, contains the entire understanding of the parties with respect to the subject matter set forth in this Agreement. In the event a conflict arises between the parties with respect to any term, condition or

provision of this Agreement, the remaining terms, conditions and provisions shall remain in full force and legal effect. No waiver of any term or condition of this Agreement by any party shall be construed by the other as a continuing waiver of such term or condition.

19. **Attorneys Fees.** In the event any action is taken by a party hereto to enforce the terms of this Agreement the prevailing party herein shall be entitled to receive its reasonable attorney's fees.
20. **Counterparts.** This Agreement may be executed in any number of counterparts, and in that event, each counterpart shall be deemed a complete original and be enforceable without reference to any other counterpart.
21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
22. **Effective Date.** This Agreement shall be effective on the date first above written, and also shall be the date the Agreement is executed.

**AGENCY:**

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

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**PARS:**

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

Tod Hammeras

TITLE: Chief Financial Officer

DATE: \_\_\_\_\_

EXHIBIT 1A  
SERVICES

PARS will provide the following services for the [Agency Name] Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with GASB 45, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

**EXHIBIT 1B**  
**FEES FOR SERVICES**

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

- (A) An annual asset fee paid by the Agency or paid from Plan Assets based on the following schedule:

<b><u>For Plan Assets from:</u></b>			<b><u>Annual Rate:</u></b>
\$0	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual Rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

- (B) The annual asset fee referenced above shall be paid as follows:

**Annual Asset Fee Payment Option (Please select one option below):**

- Annual Asset Fee shall be paid from Plan Assets.  
 Annual Asset Fee shall be invoiced and paid by the Agency.

- (C) Plan assets of both the Agency's Public Agencies Post-Retirement Health Care Plan Trust and the Public Agencies Post-Employment Benefits Trust shall be aggregated for fee calculation purposes.

EXHIBIT 1C  
DATA REQUIREMENTS

PARS will provide the Services under this Agreement contingent upon receiving the following information:

1. Executed Legal Documents:
  - (A) Certified Resolution
  - (B) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
  - (C) Trustee Investment Forms
  
2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Contribution amount
  - (C) Contribution date
  - (D) Contribution method (Check, ACH, Wire)
  
3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Payment reimbursement/distribution amount
  - (C) Applicable statement date
  - (D) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
  - (E) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)
  
4. Other information pertinent to the Services as reasonably requested by PARS and Actuarial Provider.

**MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT  
RECONCILIATION OF BALANCE SHEET OF GOVERNMENTAL FUNDS  
TO THE STATEMENT OF NET POSITION  
FOR THE YEAR ENDED JUNE 30, 2015**

Total Fund Balances - Governmental Funds \$ 7,278,045

Capital assets used for governmental activities are not financial resources and therefore are not reported as assets in Governmental Funds. The cost of the assets is \$6,431,313 and the accumulated depreciation is \$3,577,470. 2,835,843

All payables, accrued liabilities and long-term obligations are reported in the government-wide financial statements. In general, payables and accrued liabilities that will be paid from governmental funds are reported on the governmental fund financial statements regardless of whether they will be liquidated with current resources. However, the noncurrent portion of capital leases, compensated absences and special termination benefits that will be paid from governmental funds are reported as a liability in the fund financial statements only to the extent that they are due for payment during the current fiscal year. In general, liabilities that mature or come due for payment during the fiscal year are considered to have been made with current available financial resources. Bonds and other long-term obligations that will be paid from governmental funds are not recognized as a current liability in the fund financial statements when due but rather recognized as an expense when paid.

Long-term liabilities, including all bonds, are not due and payable in the current period and therefore are not reported as liabilities in the funds. Current bond and debt and all long-term liabilities at year end consist of:

Retiree Health Benefits	\$	10,878	
Deferred Inflows of Resources - Pension Benefits		(2,750,213)	
Deferred Outflows of Resources - Pension Benefits		1,901,677	
Pension Benefits		7,124,444	
Post Employment Benefits		694	
Compensated Absences		<u>610,270</u>	
Total			<u>(6,897,750)</u>

Total Net Position - Governmental Activities \$ 3,216,138

## Pension Rate Stabilization Program (PRSP) - **NEW!**

PARS (Public Agency Retirement Services) is pleased to offer the Pension Rate Stabilization Program (PRSP), an innovative IRC Section 115 irrevocable trust designed to prefund pension costs and offset GASB 68 Net Pension Liabilities (NPL). The PARS PRSP allows your public agency to securely set aside funds, separately and apart from state or county retirement systems, in a tax-exempt prefunding vehicle to mitigate long-term contribution rate volatility. Participating public agencies maintain local control over assets held in the trust and can determine the appropriate goals and risk tolerance level for the investments. The PARS PRSP is a creative solution for setting aside and safeguarding reserve monies to help deal with rising pension costs.

### *Why prefund your pension obligations with the PARS PRSP?*

- Contributions into the trust offset Net Pension Liabilities (NPL), which will be shown on your public agency's financial statements for the first time this year (due to GASB 68);
- Assets can be accessed to offset contribution rate increases (rate stabilization) or as a rainy day fund during adverse budgetary or economic conditions;
- May favorably impact a public agency's credit rating;
- Prudent use of reserve funds by applying them directly toward your public agency's increasing retirement costs; and
- As an irrevocable, exclusive benefit trust, the investment of assets can be diversified in order to achieve a greater rate of return on investments than your general fund.

### *Additional features of this cutting-edge program include:*

- Comprehensive, turn-key services that include consulting, record-keeping, reporting, compliance, trustee/custodian services and coordination of investment management;
- Multiple-employer trust structure that brings investment and administrative economies of scale with no risk sharing or set-up costs;
- Legally vetted program with recent favorable IRS Private Letter Ruling (PLR);
- Full flexibility and local control over investment options, including both discretionary and directed trustee approaches;
- Can prefund OPEB benefits in the same trust and each is accounted for separately;
- Signature-ready documents that enable fast, streamlined implementation process; and
- Hands-on support from dedicated PARS and Highmark Capital Management service teams.

### *About PARS*

*For over 30 years, PARS has designed and administered retirement plan and trust solutions exclusively for public agencies. As a specialist in program design, analysis, administration, record-keeping, compliance, consulting, and marketing, PARS administers over 1,400 plans for over 785 clients and more than 375,000 public employees. The California-based company is a leading provider of retirement programs for public agencies and is one of the largest private providers of multiple-employer Section 115 trusts in the nation.*

For more information please **contact:** Mitch Barker 800.540.6369 x116  
mbarker@pars.org



**Mojave Desert Air Quality Management District  
Community Relations & Education Office  
14306 Park Avenue, Victorville, CA 92392**

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**REPORT OF MDAQMD ACTIVITIES FOR JUNE 2016**

**Heaston to Retire**

After 10 years at the District’s helm and almost 25 as an MDAQMD employee, Eldon Heaston will be saying goodbye to the world of smokestacks and parts per million at the end of this month. Prior to his 2006 appointment as Executive Director, Heaston served as the MDAQMD’s Deputy Air Pollution Control Officer for eleven years. He also served as Executive Director of the Antelope Valley AQMD until 2015. Before this, Heaston served as the MDAQMD’s Environmental Services Manager, responsible for the development and implementation of the District’s AB2588 Toxic Hot Spots Program, rule development and Federal and State Implementation Plan development. Most recently, Heaston was named Outstanding Alumnae by Cal State University San Bernardino’s College of Natural Sciences, where he also served as an adjunct faculty member. Heaston is looking forward to helping his son-in-law with his real estate business, and spending time finishing the backyard of his newly-restored, vintage downsized home. He is also looking forward to teeing off and traveling with his wife, Sharon. MDAQMD staff wishes Eldon the best in his new life and thanks him for his many contributions to the agency.

**Roberts Named A&WMA’s 2016 Exceptional Education Contributor**

The Air & Waste Management Association has named Community Relations & Education Manager Violette Roberts the recipient of its 2016 Exceptional Education Contributor award in recognition of long term and innovative contributions to educating students, other members of A&WMA and the community about air quality as an active member of the international organization. Roberts’ contributions include serving as Manager of the MDAQMD’s award-winning CRE program since 1997; Founder/Executive Board Chair of MEEC; facilitating numerous teacher workshops throughout the High Desert and Southern California using A&WMA’s Environmental Resource Guides; and founding the District/A&WMA’s Outstanding Environmental Science Project Awards Program. The Award will be presented on June 22 during A&WMA’s 109<sup>th</sup> Annual Conference & Exhibition in New Orleans.

**Exemplar Nominations Now Being Accepted**

Nominations for the 2015-2016 Exemplar Award are now being accepted by the MDAQMD. The Exemplar recognizes businesses, schools, agencies, organizations and individuals which have demonstrated an exceptional commitment to the development of voluntary activities/projects that reduce/prevent air pollution in High Desert communities located within the District’s jurisdiction. The deadline for submissions is August 31, 2016. For more information, visit [www.mdaqmd.ca.gov](http://www.mdaqmd.ca.gov).

**District Takes to the Airwaves to Promote EnviroFlash**

On June 20, the MDAQMD took to the Victor Valley’s airwaves to remind residents to sign up for EnviroFlash, the District’s automated air quality forecast system, now that smog season is here. The campaign was part of the District’s “Business of the Day” promotion with local radio stations Y102, KAT Country and the Fox. Throughout the day, the three stations aired numerous radio spots on behalf of the District, while CRE specialist Christie Robinson provided listeners with information for signing up for EnviroFlash during a live interview on the stations’ morning shows. To sign up to receive EnviroFlash air quality alerts on your cell phone, computer or Twitter account, visit <http://mdaqmd.enviroflash.org/>