



Location:

Governing Board Chambers
14306 Park Avenue
Victorville, CA 92392
www.MDAQMD.ca.gov

MONDAY, SEPTEMBER 23, 2019

10:00 a.m.

TELECONFERENCE LOCATION(S)

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

Riverside County Administrative Center
4080 Lemon Street, 5th Floor, Conf. Room D
Riverside, CA 95202

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 — If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel.

Special Announcements/Presentations:

- A. Presentation of 2018/2019 Exemplar Award. Presenter: Brad Poiriez, Executive Director/APCO.

PUBLIC COMMENT

CLOSED SESSION

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

OPEN SESSION

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

CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted upon by the Board at one time without discussion unless a Board Member requests an item be held for discussion under DEFERRED ITEMS.

2. [Approve Minutes from Regular Governing Board Meeting of August 26, 2019.](#)
3. [Approve revised plan documents for the Mojave Desert Air Quality Management District Deferred Compensation program: the Internal Revenue Code Section 457\(b\) Plan and the 401\(a\) Employer Matching Contribution Plan. Presenter: Jean Bracy, Deputy Director – Administration.](#)
4. [1\) Award an amount not to exceed \\$175,000.00 in Carl Moyer Program funds to CalPortland for the replacement of one 1999 TEREX Bore/Drill Rig with newer cleaner engine technology thus reducing emissions; \(2\) authorize the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3\) authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel. Presenter: Jorge Camacho, Grants Specialist.](#)

5. [Receive and file the District Activity Report. Presenter: Brad Poiriez, Executive Director/APCO.](#)
6. [Receive and file minutes of the Technical Advisory Committee \(TAC\) meeting August 22, 2019. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.](#)
7. [Receive and file the Financial Report. Receive and file the preliminary Financial Report for FY20, through the month of July 2019, which provides financial information and budget performance concerning the fiscal status of the District. Presenter: Jean Bracy, Deputy Director – Administration and Laquita Cole, Finance Manager.](#)
8. [Receive and file the Legislative Report for September 2019. Presenter: Brad Poiriez, Executive Director/APCO.](#)
9. [Set date of October 28, 2019 to conduct a public hearing to consider the adoption of the 70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; Certification of Nonattainment New Source Review Program; and, Emission Statement Certification \(70 ppb O3 Evaluation\) and approval of California Environmental Quality Act \(CEQA\) documentation. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.](#)

ITEMS FOR DISCUSSION

10. DEFERRED ITEMS.
11. PUBLIC COMMENT.
12. [Conduct a public hearing to consider the adoption of Rule 1157.1 – BARCT Requirements for Boilers and Process Heaters and approval of California Environmental Quality Act \(CEQA\) documentation: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting Rule 1157.1, and directing staff actions. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.](#)
13. Reports: Executive Director.
14. Board Members Comments and Suggestions for future agenda items.

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

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

Mailed & Posted on: Thursday, September 19, 2019.

Approved:

Deanna Hernandez

Deanna Hernandez

The following page(s) contain the backup material for Agenda Item: [Approve Minutes from Regular Governing Board Meeting of August 26, 2019.](#)

Please scroll down to view the backup material.

Mojave Desert Air Quality Management District
Brad Poiriez, Executive Director
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • Fax 760.245.2699
www.MDAQMD.ca.gov • [@MDAQMD](https://twitter.com/MDAQMD)



REGULAR GOVERNING BOARD MEETING
MONDAY, AUGUST 26, 2019 - 10:00 A.M.
MDAQMD OFFICES, BOARD CHAMBERS
VICTORVILLE, CA

DRAFT MINUTES

Board Members Present:

Jeff Williams, Chair, City of Needles
Carmen Hernandez, Vice Chair, City of Barstow
James Schooler, Town of Yucca Valley
Ed Camargo, City of Adelanto
Kari Leon – Town of Apple Valley
Robert Lovingood, San Bernardino County
Daniel Mintz, Sr., City of Twentynine Palms
V. Manuel Perez, Riverside County
Barbara Riordan, Public Member
Dawn Rowe, San Bernardino County
Jim Cox, City of Victorville
William “Bill” Holland, City of Hesperia

Board Members Absent:

Joseph “Joey” DeConinck, City of Blythe

CALL TO ORDER

Chair **JEFF WILLIAMS** called the meeting to order at 10:01 a.m.

Chair **JEFF WILLIAMS** lead the Pledge of Allegiance.

MOVE TO SWEARING-IN OF NEW BOARD MEMBER(S). Chair **JEFF WILLIAMS** moved to swearing-in of new Board Member **WILLIAM “BILL” HOLLAND**. The Senior Executive Analyst swore-in Board Member **WILLIAM “BILL” HOLLAND**.

Chair **JEFF WILLIAMS** asked for roll call; roll was called.

Items with potential Conflict of Interests – If you believe you have a conflict of interest, please recuse yourself at the appropriate time. If you have a question regarding a potential conflict of interest, please contact District Counsel.

Chair **JEFF WILLIAMS** called for **PUBLIC COMMENT** – None.

CLOSED SESSION

Upon Motion by Board Member **CARMEN HERNANDEZ**, seconded by Board Member **BARBARA RIORDAN** and carried by unanimous roll call vote, the Board adjourned to Closed Session at 10:05 a.m.

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

Agenda Item 2 - CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Name of Case: Victor Ramirez vs MDAQMD et. al CIVDS 1809642 San Bernardino County Superior Court (Government Code Section 54956.9).

Agenda Item 3 - CONFERENCE WITH LABOR NEGOTIATORS (Government Code Section 54957.6). Agency designated representative: Brad Poiriez. Employee organization: Teamsters Local 1932.

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

The Governing Board reconvened to open session at 10:25 a.m., and District Counsel Karen K. Nowak stated that the Board met in Closed Session on the above Agenda Items with no reportable action.

CONSENT CALENDAR – Chair **JEFF WILLIAMS** polled the Board to determine if any member wished to pull an item on the consent calendar for discussion. Vice Chair **CARMEN HERNANDEZ** pulled and deferred Agenda Items #5, #7, and Board Member **ROBERT LOVINGOOD** pulled and deferred Agenda Item #8 for discussion. The following consent items were acted upon by the Board at one time without discussion. Upon motion by Board Member **ROBERT LOVINGOOD**, seconded by Board Member **BARBARA RIORDAN**, and carried by the following roll call vote, with eleven **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS**, with Board Member **JIM COX ABSTAINING** on agenda item #4 **AND Board Member BILL HOLLAND ABSTAINING** on the Consent Calendar, as follows:

Agenda Item 4 – Approve Minutes from Regular Governing Board Meeting of June 24, 2019.
Approved Minutes from Regular Governing Board Meeting of June 24, 2019.

Agenda Item 5 – Amend the District’s Classification Plan to add Class Specifications for supervisory positions in the Air Monitoring, Permit Engineering, Compliance, Finance, and Communications (formerly Community Relations & Education) Sections establishing a series progression from supervisor to manager; assign pay ranges; authorize the Executive Director/APCO to assign and/or promote eligible incumbents, if applicable; and inform the Board regarding other administrative matters.

Presenter: Brad Poiriez, Executive Director/APCO.

Agenda item pulled for discussion by Vice Chair CARMEN HERNANDEZ, see Agenda Item #12 DEFERRED ITEMS.

Agenda Item 6 –Amend the MDAQMD Exempt Compensation Plan to incorporate new Classifications; revise allocations for Administrative Leave; and change the performance evaluation rating scale. Presenter: Jean Bracy, Deputy Director – Administration.

Amended the MDAQMD Exempt Compensation Plan to incorporate new Classifications; **revised** allocations for Administrative Leave; and **changed** the performance evaluation rating scale.

Agenda Item 7 – 1) Award an amount not to exceed \$76,974.00 in Carl Moyer Program funds to Nish Noroian Farms for the replacement of one 1975 John Deere tractor with newer cleaner engine technology thus reducing emissions; (2) authorize the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3) authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel. Presenter: Jorge Camacho, Grants Specialist.

Agenda item pulled for discussion by Vice Chair CARMEN HERNANDEZ, see Agenda Item #12 DEFERRED ITEMS.

Agenda Item 8 – Receive and file the District Activity Report.

Presenter: Brad Poiriez, Executive Director/APCO.

Agenda item pulled for discussion by Board Member ROBERT LOVINGOOD, see Agenda Item #12 DEFERRED ITEMS.

Agenda Item 9 – Receive and file the Financial Report. Receive and file the preliminary Financial Report for **FY19**, through the month of **June 2019**, which provides financial information and budget performance concerning the fiscal status of the District.

Presenter: Jean Bracy, Deputy Director – Administration.

Received and filed the Financial Report for **FY19**, through the month of **June 2019**, which provides financial information and budget performance concerning the fiscal status of the District.

Agenda Item 10 – Receive and file the Legislative Report for August 2019.

Presenter: Brad Poiriez, Executive Director/APCO.

Received and filed the Legislative Report for August 2019.

Agenda Item 11 – Set date of September 23, 2019 to conduct a public hearing to consider the Adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the*

FONA and approval of California Environmental Quality Act (CEQA) documentation.

Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.

Date set for September 23, 2019 to conduct a public hearing to consider the Adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA* and approval of California Environmental Quality Act (CEQA) documentation.

Agenda Item 12 – DEFERRED ITEMS.

Agenda Items #5, #7 & #8:

Agenda Item 5 – Amend the District’s Classification Plan to add Class Specifications for supervisory positions in the Air Monitoring, Permit Engineering, Compliance, Finance, and Communications (formerly Community Relations & Education) Sections establishing a series progression from supervisor to manager; assign pay ranges; authorize the Executive Director/APCO to assign and/or promote eligible incumbents, if applicable; and inform the Board regarding other administrative matters.

Presenter: Brad Poiriez, Executive Director/APCO.

Executive Director Brad Poiriez presented background information on this agenda item and answered questions from the Board. After discussion, and upon motion by Board Member **CARMEN HERNANDEZ**, seconded by Board Member **DAWN ROWE**, and carried by the following roll call vote, with eleven **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS** with Board Member **BILL HOLLAND abstaining**, the Board, **Amended** the District’s Classification Plan to add Class Specifications for supervisory positions in the Air Monitoring, Permit Engineering, Compliance, Finance, and Communications (formerly Community Relations & Education) Sections establishing a series progression from supervisor to manager; assign pay ranges; **authorized** the Executive Director/APCO to assign and/or promote eligible incumbents, if applicable; and inform the Board regarding other administrative matters.

Agenda Item 7 – 1) Award an amount not to exceed \$76,974.00 in Carl Moyer Program funds to Nish Noroian Farms for the replacement of one 1975 John Deere tractor with newer cleaner engine technology thus reducing emissions; (2) authorize the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3) authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel. Presenter: Jorge Camacho, Grants Specialist.

Executive Director Brad Poiriez presented background information on this agenda item and answered questions from the Board. After discussion, and upon motion by Board Member **BARBARA RIORDAN**, seconded by Board Member **ED CAMARGO**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, BILL HOLLAND, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS** the Board, 1) **Awarded** an amount not to exceed \$76,974.00 in Carl Moyer Program funds to Nish Noroian Farms for the replacement of one 1975 John Deere tractor with newer cleaner engine technology thus reducing

emissions; (2) **authorized** the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3) **authorized** the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

Agenda Item 8 – Receive and file the District Activity Report.

Presenter: Brad Poiriez, Executive Director/APCO.

Board Member **ROBERT LOVINGOOD** expressed his appreciation of staff’s outreach for grant funding especially with the assistance provided to the local areas that were severely impacted by the earthquakes this past July, and upon motion by Board Member **ROBERT LOVINGOOD**, seconded by Board Member **JIM COX**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, BILL HOLLAND, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS** the Board, **received and filed** the District Activity Report.

Agenda Item 13 – PUBLIC COMMENT.

None.

Agenda Item 14 – Conduct a public hearing to consider the amendment of Rule 102 – *Definition of Terms*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, amending Rule 102 and directing staff actions. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.

Chair **JEFF WILLIAMS** **opened** the public hearing. Executive Director Brad Poiriez presented the staff report and answered questions from the Board. Chair **JEFF WILLIAMS** solicited public comment, being none, Chair **JEFF WILLIAMS** **closed** the public hearing; **made** the determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; **waived** reading of Resolution; and upon motion by Board Member **ROBERT LOVINGOOD**, seconded by Board Member **DANIEL MINTZ, Sr.**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, BILL HOLLAND, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS** the Board, **adopted Resolution 19-09, “A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 102 – DEFINITION OF TERMS AND DIRECTING STAFF ACTIONS.”**

Agenda Item 15 – Conduct a public hearing to consider the amendment of Rule 401 – *Visible Emissions*: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making

appropriate findings, certifying the Notice of Exemption, amending Rule 401 and directing staff actions. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations. Chair **JEFF WILLIAMS** opened the public hearing. Executive Director Brad Poiriez presented the staff report and answered questions from the Board. Chair **JEFF WILLIAMS** solicited public comment, being none, Chair **JEFF WILLIAMS** closed the public hearing; **made** the determination that the California Environmental Quality Act (CEQA) Categorical Exemption applies; **waived** reading of Resolution; and upon motion by Board Member **CARMEN HERNANDEZ**, seconded by Board Member **DAWN ROWE**, and carried by the following roll call vote, with twelve **AYES** votes by Board Members **ED CAMARGO, JIM COX, CARMEN HERNANDEZ, BILL HOLLAND, KARI LEON, ROBERT LOVINGOOD, DANIEL MINTZ, Sr., V. MANUEL PEREZ, BARBARA RIORDAN, DAWN ROWE, JAMES SCHOOLER and JEFF WILLIAMS** the Board, **adopted Resolution 19-10, “A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, AMENDING RULE 401 – VISIBLE EMISSIONS AND DIRECTING STAFF ACTIONS.”**

Agenda Item 16 – Reports:

Special notes from Mr. Poiriez:

- Welcomed back everyone after a month off;
- Welcomed Mayor Pro Tem Holland to the MDAQMD Governing Board.

Mr. Poiriez updated the Board of past events:

- July 31st – met with Amerge Executive Staff to discuss operations progress on pyrolysis unit used for medical waste.
- August 1st – met with the Employee’s Teamster Union Representative regarding the collective bargaining contract;
- August 1st – staff held the Southwest Exceptional Events working group conference call; the group will meet in person at the upcoming CDAWG conference – 08/08/2019 EPA released the Prescribed Fire Guidance for prescribed fire on wildlands that may influence ozone & PM concentrations – the working group had grown larger and includes local, state and federal agencies from California, Arizona, Nevada, Texas, Colorado and Idaho: this shoe how vital EE programs are to SIP planning efforts in West with natural events & wildfires – you’ll notice in our update we continue to deploy additional purple air sensors (36 thus far) the most of any air district;
- August 7th – \$500K Grant check presented to COMM AV for two tug replacements;
- August 8th – clutter clean-up day for staff;
- August 8th – met with Amerge Officials to discuss operations and feedstock use;
- August 13th – met with Labor Management Task Force and submitted letter to discuss willingness to start discussion on collective bargaining contract extension;
- August 20th – 22nd – attended CAPCOA Board meeting – discussed 1) Cal OSHA worker wildfire smoke safety rulemaking – components included employer implemented system for informing employee; provide respirators to employees on request that meet NIOSH standards N-95 – still in advisory meeting phase; 2) AB 617 incentive guidelines update, incentive allocations (we will get \$1.2M for year 2); 3) development of Continuing Of Operations Plan (COOP) with CARB Executive Staff; 4) light duty vehicle emission standards agreement with automakers; 5) heavy duty vehicle emissions standards; 6) Public Safety Power Shutoff (PSPS) update; 7) CTR/AB 2588 update – state may add potentially

1000 new toxic compounds; 8) US EPA landfill emissions guidelines compliance plan; 9) CARB Training Program Funding (VEE & Hearing Board); a couple of pieces of legislation note: AB 661 Wildfire Smoke Air Pollution Emergency Plan currently only Sacramento Metro APCD requires planning with health officer, consult with local emergency services, schools and regional planning agencies – CARB component to coordinate with local air district by 01/01/2022; AB 423 specific to San Diego APCD – expand Governing Board structure, certain requirements to be posted on web 1) all current and pending permit information, 2) completed enforcement actions, 3) consider adopting indirect source rule to name a few – districts tracking as may be a push to expand to all districts; a lot of bills introduced to protect California for Federal rollback efforts.

Mr. Poiriez updated the Board of upcoming events:

- August 26th – 28th – will conference call into AAPCA Fall Conference;
- August 27th – will conference call into WRAP Administrative Subcommittee on funding call.
- September 4th – will conference call into WRAP Board conference;
- September 19th – host Active Shooter training for all staff at 10 am – Board invited to attend;
- October 22nd – tour Goldstone Deep Space Communication facility – Board invited to attend;
- November 6th & 7th – CDAWG Conference Palm Springs, CA – Board invited to attend

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

- Board Member Cox requested to be kept abreast of exceptional events.
- Board Member Leon thanked the District for providing “active shooter” training.
- Chair Williams thanked the District for providing Purple Air Sensors.

Being no further business, Chair **JEFF WILLIAMS** adjourned the meeting at **10:59 a.m.** to the next Regular Meeting of ***September 23, 2019.***

The following page(s) contain the backup material for Agenda Item: [Approve revised plan documents for the Mojave Desert Air Quality Management District Deferred Compensation program: the Internal Revenue Code Section 457\(b\) Plan and the 401\(a\) Employer Matching Contribution Plan. Presenter: Jean Bracy, Deputy Director – Administration.](#)

Please scroll down to view the backup material.

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

AGENDA ITEM #3

DATE: September 23, 2019

RECOMMENDATION: Approve revised plan documents for the Mojave Desert Air Quality Management District Deferred Compensation program: the Internal Revenue Code Section 457(b) Plan and the 401(a) Employer Matching Contribution Plan.

SUMMARY: This item approves revised plan documents for the MDAQMD Deferred Compensation program including the Deferred Compensation Plan (Internal Revenue Code 457(b) Plan), the Investment Policy Statement for the 457(b) Deferred Compensation Plan; the 401(a) Matching Contribution Plan; and the Trust Agreement for the MDAQMD 401(a) Matching Contribution Plan; including clean up and updating policy language and document format.

BACKGROUND: The District offers its employees tax deferred retirement savings plans as allowed under provisions of Internal Revenue Code Section 457(b), and an employer matching contribution tax deferred savings plan as allowed under provisions of the Internal Revenue Code Section 401(a).

Periodically the Plan documents are reviewed for currency and relevance. These revisions were reviewed by John Wahlin, the District's Special Counsel for Benefits from Best, Best and Krieger. The documents were reformatted, grammar revised where needed for clarity, and typos repaired. The revisions also updated the District's Plans to comply with various changes to the IRS code that have been made since the adoption of the Plan. The revisions do not materially change the District's practice or modify any existing benefit not allowed by law. The revisions are further described in Exhibit 1.

REASON FOR RECOMMENDATION: Governing Board action is necessary to approve changes to the policies established or governed by the Governing Board.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about September 9, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Jean Bracy, Deputy Director - Administration

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

AGENDA ITEM #3

PAGE 2

Exhibit 1

In General:

The recommended revisions are administrative and add or repair definitions to improve clarity particularly with regard to delegation of authority to administer the plan, and typographical errors were corrected. A formatted cover sheet displaying the District's new logo has been added and page numbering formats were corrected. Specific, section by section revisions are noted below.

Deferred Compensation Plan (457(b) Plan):

The recommended revisions are administrative: incomplete definitions were repaired and replaced in alphabetical order; delegation of authority to administer the plan is clarified, and typographical errors were corrected, further described below:

Introduction: The Plan's Administrator is updated to reflect Voya Financial (the successor to ING Financial Advisors).

Article I, Definitions. Page 6. The definition for "District" is reordered according to alphabetization, and the subsequent paragraphs renumbered accordingly.

Section 1.7 The definition for "District" is revised to clarify the "Mojave Desert Air Quality Management District," as the Employer.

Section 1.10 (renumbered), the definition for "Employer" is clarified to be the "Mojave Desert Air Quality Management District."

Article III, Contributions and Allocations, Pages 11 and 12. The tables referring to eligible referrals have been simplified to read the current year and allows for future adjustments. The Internal Revenue Service annually reports the limits for eligible deferrals.

Article V, Administration, Page 26

Section 5.2 Designation of Administrative Authority is revised to delegate the Executive Director/APCO as the Administrator of the Plan. The District's past practice is for a committee of employees to discharge the Administrator's responsibilities under the Plan. Policies and procedures are in place to govern the duties and responsibilities of the Committee (Standard Practice 3-5, "Deferred Compensation Committee.")

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

AGENDA ITEM #3

PAGE 3

**Investment Policy Statement
for 457(b) Deferred Compensation Plan:**

The Title Page and footers are updated to the proposed revised date, September 23, 2019.

Section 1, Page 1. The first paragraph has been revised to reference the 457(b) Plan. The second paragraph references the Deferred Compensation Committee and references the internal standard practice that defines the Committee and its roles and responsibilities (Standard Practice 3-5).

Minor grammatical changes have been made throughout to improve the reading.

**Mojave Desert Air Quality Management District 401(A) Matching Contribution Plan;
dated “Restated Effective January 1, 2013”**

Minor grammatical changes have been made throughout to improve the reading.

Article V, Administration, Page 5

Section 5.1, Administration of Plan. The recommended revision is for the “Employer” (by definition the MDAQMD) to delegate the administration of the Plan to the Executive Director/APCO.

Section 5.2 Administrator’s Powers. The recommended revision inserts a section allowing the Administrator to appoint a committee to discharge the Administrator’s duties. Policies and procedures are in place to govern the duties and responsibilities of the Committee (Standard Practice 3-5, “Deferred Compensation Committee.”).

**Trust Agreement for the
Mojave Desert Air Quality Management District Retirement Plan**

This revision updates the appointment of the Trustee to the current Executive Director.

Minor grammatical changes have been made throughout to improve the reading.

Article I Definitions.

Section 1.1. General Definitions. The recommended revision inserts the full reference to the MDAQMD 457(b) Plan Document.

Section 1.2 Additional Definitions. The recommended revision inserts a definition for “Trustee” in response to the reference of the Trustee in the first paragraph.



Deferred Compensation Plan (Internal Revenue Code Section 457(b) Plan)

September 23, 2019

Mojave Desert Air Quality Management District

14306 Park Avenue
Victorville, CA 92392-2310
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www.MDAQMD.ca.gov • @MDAQMD

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Deferred Compensation Plan
(Internal Revenue Code Section 457(b) Plan)

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MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

457(b) DEFERRED COMPENSATION

PLAN FOR GOVERNMENTAL EMPLOYEES

(Internal Revenue Code Section 457(b) Plan)

PREAMBLE

The Mojave Desert Air Quality Management District (the “District”) established the Mojave Desert Air Quality Management District Deferred Compensation Plan (the “Plan”) for the benefit of its Employees effective June 23, 1997.

The Plan is established and maintained pursuant to applicable state law and is intended to comply with the provisions of Section 457(b) of the Internal Revenue Code of 1986, as amended, Regulations thereunder and applicable federal law relating to governmental retirement plans. The Plan consists of the provisions set forth in this plan document and is applicable to each Employee of the District.

INTRODUCTION

In 1978, the Federal Government enacted Section 457(b) of the Internal Revenue code, which allows employees of political subdivisions to defer a portion of their current income to provide for their future income following retirement. This law allows you to contribute an amount, up to 100% of your Includible Compensation, to an eligible deferred compensation plan before state and federal taxes are withheld; therefore, you pay no current income tax on the money you contribute to the Plan. Furthermore, the income and earnings on your contributions are tax-deferred.

This is a major benefit for District employees, which can save you taxes today, and provide savings for your future. Contributing to the Plan can:

1. Reduce current federal and state income tax.
2. Supplement your retirement income.
3. Defer taxes on your current contributions and interest earnings.
4. Increase your financial independence at retirement.

The Plan's **Administrator** has designated ~~ING Financial Advisers, PO Box 990064, Hartford, CT 06199-0064~~ Voya Financial, One Orange Way, Windsor CT 06095, as the **Provider (also the Plan Record Keeper and Investment Manager)**. Questions should be directed to ING Financial Advisers, (909) 798-3251.

ARTICLE I DEFINITIONS

As used in the Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context.

1.1 “**Administrator**” means the person(s), committee or organization appointed by the District pursuant to Section 5.2 to administer the Plan and perform administrative functions for the Plan as specified by the District.

1.2 “Age 50 Plus Catch-Up Contribution” means the catch-up contribution for Participants who attain age 50 by the end of the calendar year, as permitted under Code Section 414(v) pursuant to Section 3.3.

1.3 “Alternate Payee” means any spouse, former spouse, child or other dependent of a Participant who is recognized by a qualified domestic relations order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

1.4 “Beneficiary” means, subject to Article IV, the individual, individuals or entity designated by the Participant to receive any undistributed amounts under the Participant Account which becomes payable upon the Participant’s death. Subject to Article IV, the Participant may designate more than one Beneficiary. If two or more designated Beneficiaries survive the Participant; payments shall be made equally to all such Beneficiaries, unless otherwise provided in the form of designation made by the Participant. Elections made by a Participant in his **or her** beneficiary designation form shall be binding on any such Beneficiary or Beneficiaries. In the absence of a valid beneficiary designation, the Participant’s estate shall be deemed to be the Beneficiary. An Alternate Payee or Beneficiary may also designate his or her own Beneficiary.

1.5 “Code” means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.6 “Compensation” means for an Employee all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee’s gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee’s gross income for the calendar year but for a compensation reduction election under Code Sections 125, 132(f), 401(k), 403(b) or 457(b) (including an election to defer compensation under Article III).

Effective for Plan Years beginning on or after July 1, 2007, “Compensation” shall also include any amount which is paid within two and one-half (2.5) months following a Severance from Employment or by the end of the Plan Year in which the Severance from Employment occurs, including the following types of payments:

(a) Regular Pay. Compensation attributable to services performed by Employee during the Employee’s regular working hours as well as outside the Employee’s regular working hours (including overtime, commissions, bonuses, or other similar payments) and which

would have been paid prior to the Employee's Severance from Employment if the Employee had continued in employment with Employer.

(b) Accrued Paid Leave. Amounts paid for unused accrued bona fide sick, vacation or other leave provided the Employee would have been able to use the leave prior to Severance from Employment.

(c) Deferred Compensation. Compensation paid to the Employee pursuant to a nonqualified deferred compensation plan sponsored by the Employer and includible in the Employee's gross income so long as the payment would have been made if the Employee had continued in employment with Employer.

Compensation shall not include any severance payments or salary continuation payments paid by the Employer due to military service or permanent disability.

1.7 "District" means the Mojave Desert Air Quality Management District, which is the Employer named in the Plan and any successor which shall maintain this Plan, and any predecessor which has previously maintained this plan.

1.8 "Eligible Individual" means any Employee who meets the criteria set forth in Section 2.1.

1.9 "Employee" means any common law employee who is employed by the District and who performs services for the District for which Compensation is payable.

1.10 "Employer" means ~~a state or the District of Columbia, any political subdivision of a state or the District of Columbia, or any agency or instrumentality of a state or the District of Columbia, which satisfies the definition of Code Section 457(e)(1)(A).~~ Specifically, for the purposes of this plan the Mojave Desert Air Quality Management District.

1.11 "Former Participant" means a person who has been a Participant and retains a Participant Account, but who has ceased to be an active Participant for any reason.

1.12 "Includible Compensation" means wages, salaries, and fees for professional services (including contributions made to a plan under Code Section 125 to fund group health insurance coverage which the Employee does not have the option of receiving in cash because such Employee is unable to certify that he has other health coverage) and other amounts payable (without regard to whether or not an amount is paid in cash) for personal services actually rendered to the District to the extent that the amounts are includible in gross income. Includible Compensation shall include elective contributions that are made by the District on behalf of a Participant that are not includible in gross income under Code Sections 125, 402(g)(3), 457(b) and 132(f)(4). Includible Compensation shall not include Employer pick-up contributions described in Code Section 414(h)(2).

1.13 "Investment Advisory Service" means a service that may be retained in order to satisfy the needs of participants who are unsure of how to invest their monies after having received communications and education materials, or those who lack the time and/or resources to make an informed decision.

1.14 “Investment Product” means group or individual annuity contracts or such other investment arrangements issued by or offered through the Provider and used to hold assets of the plan.

1.15 “Normal Retirement Age” means, as to each Participant, the age designated by the Participant within the range of ages ending 70 1/2 and beginning not earlier than the earliest age at which the Participant has the right to retire and beginning receiving benefits under the retirement plan of the District. For a Participant who continues in the service of the District after age 70 1/2, Normal Retirement Age shall be the age at which the Participant experiences a Severance from Employment with the District. The District is not permitted to have more than one Normal Retirement Age for each Participant under all of the Code Section 457(b) plans that it (together with any other entity required to be aggregated with the District under Code Sections 414(b), (c), (m) or (o)) sponsors.

1.16 “Participant” means any individual who has entered into a Participant Agreement and for whom a Participant Account is maintained under the Plan.

1.17 “Participant Account” means the total of the Participant Deferral Account, the Participant 457 Rollover Account (including any earnings and losses attributable thereon), and the Participant Non-457 Rollover Account (including any earnings and losses attributable thereon) for each Participant or Former Participant or, if applicable, an Alternate Payee or Beneficiary under the Plan.

1.18 “Participant Deferral Account” means that portion of a Participant Account (including any earnings and losses attributable thereon) established and maintained by the Administrator for each Participant which is credited with the amounts of Compensation that the Participant has elected to defer under the Plan, including any amounts transferred from an eligible deferred compensation plan in accordance with Section 3.6.

1.19 “Participant 457 Rollover Account” means that portion of the Participant Account (including any earnings and losses attributable thereon) established and maintained by the Administrator for each Participant which is credited with any Rollover Contributions received from another Employer’s Code Section 457(b) plan in accordance with Section 3.7.

1.20 “Participant Non-457 Rollover Account” means that portion of the Participant Account (including any earnings and losses attributable thereon) established and maintained by the Administrator for each Participant which is credited with Rollover Contributions rolled over from another Eligible Retirement Plans (other than from another Employer’s Code Section 457(b) plan) in accordance with Section 3.7.

1.21 “Participant Agreement” means an agreement, which meets the requirements of Section 2.4, entered into between an Eligible Individual and the District whereby such Eligible Individual agrees to commence deferring amounts from Compensation to the Plan and thus becoming a Participant.

1.22 “Plan” means this instrument, including all amendments thereto, governing participation and administration of an eligible deferred compensation plan under Code Section 457(b) as adopted by the District.

1.23 “Plan Year” means the 12-consecutive month accounting period commencing on January 1 and ending on December 31 of each year.

1.24 “**Provider**” means the Plan Record Keeper and/or Investment ~~Manager Advisor~~ or such other provider entity as the Administrator may approve.

1.25 “Regulations” means the federal income tax Regulations, as promulgated by the Secretary of the Treasury or his delegate, and as amended from time to time.

1.26 “Rollover Contribution” means the amounts received by a Participant or Eligible Individual and credited to a Participant Account for his or her benefit in accordance with Sections 3.6 and 3.7.

1.27 “Severance from Employment” means the date, on which the Employee dies, retires or otherwise has a severance from employment with the District, as determined by the Administrator.

1.28 “Special Section 457 Catch-up Contributions” means the catch-up contributions for a Participant in the three consecutive years prior to the year in which the Participant reaches Normal Retirement Age, as permitted under Code Section 457(b)(3) and pursuant to Section 3.2.

1.29 ~~“District” means the Employer named in the Plan and any successor which shall maintain this Plan, and any predecessor which has maintained this plan.~~

1.29 “Unforeseeable Emergency” means a severe financial hardship of the Participant’s dependent, –or a Beneficiary –resulting from extraordinary and unforeseeable circumstances generally beyond the control of the Participant or Beneficiary. An Unforeseeable Emergency shall include, but not be limited to, the following events:

(a) an illness or accident of a Participant, the Participant’s spouse, or the Participant’s (as defined in Code Section 152(a)) or any Beneficiary under the Plan;

(b) loss of the Participant’s or Beneficiary’s property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner’s insurance); or

(c) the need to pay for the funeral expenses of the Participant’s spouse or dependent (as defined in Code Section 152(a)) or any Beneficiary under the Plan.

A determination of an Unforeseeable Emergency shall be based on each Participant’s or Beneficiary’s specific facts and circumstances.

ARTICLE II ELIGIBILITY

2.1 CONDITIONS OF ELIGIBILITY

All employees in regular budgeted positions of the District shall be eligible to participate in the Plan, except as specified below:

- (1) Noncitizen resident with no U.S. source of income.
- (2) Employees who normally work less than 20 hours per week.
- (3) Students performing services for the District whose Compensation is not considered wages under the Federal Insurance Contributions Act ("FICA").
- (4) Independent Contractors.

Each such Eligible Individual shall be permitted to participate in the Plan following his or her satisfaction of the eligibility requirements specified above and upon submitting an executed Participant Agreement.

2.2 DETERMINATION OF ELIGIBILITY AND EFFECTIVE DATE OF PARTICIPATION

(a) The Administrator shall determine whether each Employee is an Eligible Individual and has satisfied the eligibility requirements based upon information furnished by the District. Such determination shall be conclusive and binding and the criteria for such determination shall be applied uniformly to all Employees.

(b) An Eligible Individual shall elect to participate and become a Participant by signing a Participant Agreement and filing such agreement with the Administrator in accordance with Section 2.4.

(c) The Participant shall provide investment direction for contributions made to the Investment Product on such forms as may be required by the Provider.

2.3 TERMINATION OF ELIGIBILITY

In the event a Participant changes from a classification of an Eligible Individual to a non-Eligible Individual, such non-Eligible Individual shall be considered an inactive Participant. The Participant Account of such inactive Participant shall continue to be credited with any attributable earnings or losses based on the individual investment performance of the Participant Account.

2.4 PARTICIPANT AGREEMENTS

(a) In order to participate in the Plan, a Participant must complete and file a Participant Agreement in a manner and method determined by the Administrator. The Participant Agreement shall specify:

(1) The amount (expressed either as a dollar amount or as a percentage) of the Participant's Compensation which the Participant elects to defer, subject to the limitations of Article III; and

(2) The date as of which reduction and deferral of Compensation pursuant to the Participant Agreement shall begin.

(b) An Eligible Individual may defer Compensation payable in the calendar month during which he or she first becomes an Eligible Individual if the Participant Agreement providing for such deferral is entered into on or before the first day of the month in which the Compensation is paid or becomes available.

(c) Notwithstanding subsection (b), a newly Eligible Individual may defer Compensation payable in the calendar month during which he or she first becomes an Eligible Individual if a Participant Agreement is entered into on or before the first day on which the Eligible Individual performs services for the District or first becomes eligible to participate.

(d) A Participant may, by amendment of a Participant Agreement or by any manner as the Administrator may prescribe, do any of the following:

(1) change the specification of the investment of any contributions of the Account under the Investment Product; or

(2) change prospectively the amount of Compensation to be deferred.

An amendment to the Participant Agreement shall be effective as early as administratively practicable, but not earlier than the first day of the following calendar month in which the Compensation is paid or made available.

ARTICLE III
CONTRIBUTIONS AND ALLOCATIONS

3.1 DEFERRALS

(a) Except as provided in Section 3.2 and 3.3, and subject to any applicable law or under any applicable collective bargaining agreement, the maximum amount which may be deferred by a Participant in any taxable year shall not exceed the lesser of (i) the applicable dollar amount provided under Code Section 457(e)(15) (as may be indexed annually) or (ii) 100% of the Participant's Includible Compensation. The applicable dollar amount under Code Section 457(e)(15) is as follows:

Calendar Year	Applicable Dollar Amount
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000
2007 and 2008	\$15,500
2009, 2010, 2011, 2019 and thereafter	\$16,500, \$19,000 and as adjusted annually for cost living increases in accordance with Code Section 457(e)(15)

(b) A Participant may elect to defer unpaid and accumulated sick pay and accumulated vacation pay provided the Participant enters into a Participant Agreement pursuant to Section 2.4 to defer such accumulated pay prior to the beginning of the month in which the amounts would otherwise be paid or make available to the Participant. A Participant who is a former Employee may defer accumulated sick pay and vacation pay, including amount paid within 2 1/2 months of the Participant's Severance from Employment with the District, provided that the Participant enters into a Participant Agreement pursuant to Section 2.4 to defer such amounts prior to the beginning of the month the amounts would otherwise be paid or made available and the Participant is an Employee of the District in that month. Elections to defer accumulated sick pay or vacation pay shall not cause the Participant's deferrals to exceed the applicable dollar amount under Section 3.1(a) above.

3.2 SPECIAL 457 CATCH-UP CONTRIBUTIONS

(a) In any one or more of a Participant's last three calendar years ending before the year in which the Participant attains Normal Retirement Age the Participant may elect to defer

an amount not exceeding the lesser of (i) twice the applicable dollar amount permitted as a general deferral under Section 3.1(a), or (ii) the sum of the maximum deferrals permitted under Section 3.1(a) for the current tax year and as much of the applicable deferral limit under Code Section 457(e)(15) in prior taxable years that had not previously been used (“underutilized amount”).

(1) For purposes of this section, a prior year shall be ~~taken into account~~considered only if such year began after December 31, 1978, and the Participant was eligible to participate in the Plan during all or a portion of the prior year. A Participant may only make an election under this subsection (a) once with respect to any Code Section 457(b) deferred compensation plan of the District.

3.3 AGE 50 PLUS CATCH-UP CONTRIBUTIONS

A Participant who has attained age 50 before the close of the calendar year may elect to make Age 50 Plus Catch-up Contributions in addition to the deferrals under Section 4.1, subject to any limitations imposed under applicable law or under any applicable collective bargaining agreement. Such contributions are not subject to the limitations of Code Section 457(b). The maximum dollar amount of the Age 50 Plus Catch-up Contributions for a calendar year is as follows:

Calendar Year	Applicable Dollar Amount
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006, 2007 and 2008	\$5,000
2009, 2010, 2011 <u>2019</u> and thereafter	\$5,500 <u>6,000</u> and as adjusted <u>annually</u> for cost of living increases in accordance with Code Section 414(v)

3.4 MAXIMUM AMOUNT OF CATCH-UP CONTRIBUTIONS

Any catch-up contributions made by a Participant pursuant to Section 3.2 or Section 3.3 may not exceed the greater of (i) the amount that the Participant is eligible to defer under Section 3.2 or (ii) the amount that the Participant is eligible to defer under Section 3.3.

3.5 EXCESS DEFERRALS

(a) If a Participant is or has been a participant in one or more other Code Section 457(b) plans in the same calendar year, then the Plan and all such other plans shall be considered as one plan for purposes of applying the limitations of this Article III. For this purpose, the

Administrator shall ~~take into account~~ consider any other such Code Section 457(b) plan of the District and any such other Code Section 457 (b) plans in which the individual participated in during the same calendar year, provided the Participant provides the Administrator with sufficient information concerning his or her participation,

(b) In the event that the limit on deferral contributions is exceeded by a Participant for any Plan Year, the Administrator shall direct the Provider to distribute to the Participant such excess deferrals, including any earnings or losses allocable to the excess deferrals as soon as administratively practicable following the Administrator's determination that the amount is an excess deferral. Distributions of excess deferrals shall be made reported as taxable Compensation in the year of distribution from the Plan.

(c) A Participant who participates in the Plan and another 457(b) plan of another employer during the same tax period shall be responsible for complying with the deferral limits of this Article III. In the event of an excess deferral amount, the Participant shall notify the Administrator so that the excess deferrals may be distributed as soon as practicable after the Administrator determines that the amount is an excess deferral.

3.6 TRANSFERS FROM OTHER CODE SECTION 457(b) PLANS:

(a) The Plan shall accept transfers of amounts previously deferred under another Code Section 457(b) plan maintained by another ~~E~~employer.

(b) A transfer under subsection (a) shall only be permitted if:

(1) the transferring plan provides for the transfer of such amounts, and

(2) the Participant has a benefit equal to the amount immediately after the transfer to least equal to the amount under the Plan immediately before the transfer.

(c) The Administrator may require such documentation from the transferring plan as it deems necessary to effectuate the transfer in accordance with Regulation Section 1.457-10(b) and to confirm that the transferring plan is an eligible government plan as defined in Regulation Section 1.457-2(f). The amount so transferred shall be credited to the Participant Deferral Account and shall be held, accounted for, administered and otherwise treated in the same manner as amounts deferred under Section 3.1, except that the transferred amounts shall not be taken into consideration for purposes of determining the Participant's annual deferral amount under Section 3.1(a) and shall be held in the Plan until otherwise distributable under Section 4.1.

3.7 ROLLOVERS TO THE PLAN

(a) With the consent of the Administrator, amounts that are considered Eligible Rollover Distributions (as defined in Code Section 402(c)(4) and Section 4.7(c)) may be rolled over by an Eligible Individual, whether or not a Participant at the time, from an Eligible Retirement Plan, as defined in subsection (b) below. The amounts rolled over from an Eligible Retirement Plan (other than an eligible Code Section 457(b) plan maintained by an Employer) shall be allocated to the Participant Non-457 Rollover Account. Amounts in the Participant Non-457 Rollover Account shall be accounted for separately from amounts in the Participant 457 Rollover

Account; however incoming rollovers shall be held in the Plan until otherwise distributable under Section 4.1.

(b) For purposes of this Section 3.7 and Section 4.7, the following terms shall have the following means:

(1) “Eligible Retirement Plan” means an eligible retirement plan described in Code Section 402(c)(8)(B) and shall include: (i) another eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A); (ii) a Code Section 403(a) or 403(b) program; (iii) a qualified Code Section 401(a) plan; (iv) an individual retirement account as described in Code Section 408(a), and an individual retirement annuity as described in Code Section 408(b).

(2) “Amounts rolled over from an Eligible Retirement Plan” means:

a. Amounts rolled to the Plan directly from another Eligible Retirement Plan on behalf of an Eligible Individual; and

b. Eligible Rollover Distributions as defined in Code Section 402(c)(4) received by an Eligible Individual from another Eligible Retirement Plan that are rolled over by the Eligible Individual to the Plan within sixty (60) days, following his or her receipt thereof.

3.8 INVESTMENTS

(a) Amounts deferred under the Plan shall be invested in any Investment Product. Participants will direct the investment of their Participant Accounts among the investment options available under the Investment Product. Contributions shall be allocated to a Participant Account in accordance with this Article III, including earnings and losses attributable to such contributions. If any provision of an Investment Product agreement is not consistent with the Plan provisions, the terms of the Plan shall control.

(b) The Provider who shall issue an Investment Product hereunder is not responsible for the legal aspects of this Plan. The Provider is absolved from any liability and shall be held harmless for any actions taken in accordance with direction of the Administrator, and shall have no duty to see to the application of any funds paid from the Plan pursuant to the direction of the Administrator, nor be required to question any actions directed by the Administrator, subject to applicable law. Regardless of any provision of this Plan to the contrary, the Provider shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Investment Product, which it issues hereunder, or the practices and procedures of the Provider. In addition, the Provider is entitled to rely on all information provided by the Administrator, the District, its agents, officer and Employees.

ARTICLE IV
DETERMINATION, DISTRIBUTION AND TRANSFER OF BENEFITS

4.1 DISTRIBUTIONS UNDER THE PLAN

(a) A Participant Account may not be paid to a Participant (or, if applicable, the Beneficiary or an Alternate Payee) until one of the following events has occurred:

- (1) Upon the Participant's Severance from Employment;
- (2) The calendar year in which the Participant attains age 70 1/2 in accordance with the provisions of Section 4.2; or
- (3) When the Participant or Beneficiary experiences an Unforeseeable Emergency as provided in Section 4.6; or
- (4) Distributions required pursuant to a "Qualified Domestic Relations Order in accordance with Section 4.10; or
- (5) Involuntary distributions of 457(b) trust fund balances \$5,000 or less in accordance with Section 4.11; or
- (6) Upon plan termination (under certain circumstances).

(b) Upon the occurrence of a distributable event described in paragraph (a) above, but in no event later than the "required beginning date" specified in Section 4.2(e)(2) below, a Participant, Former Participant or Alternate Payee shall be given the opportunity to elect from among the following benefit distribution options:

- (1) Cash lump sum payment;
- (2) Joint and Survivor Annuity;
- (3) Immediate or Deferred Annuity (including life annuities and installment payment annuities); or
- (4) Any other systematic distribution option permitted under the Investment Product.

(c) Once a Participant, Beneficiary or Alternate Payee becomes eligible for benefits, the Administrator shall provide a written notice and election forms to the payee explaining the following:

- (1) The right to defer the commencement of benefits until the Required Beginning Date (as defined in Section 4.2(e)(2));
- (2) A description of the benefit payment options available under the Plan;

(3) The option to elect a direct rollover of benefits to an Eligible Retirement Plan; and

(4) The mandatory income tax withholding rules and rollover provisions applicable to a lump sum distribution under Section 402(d) and (e) of the Code.

The notice required under this Section 4.1(c) shall be provided not less than thirty (30) days but not more than one hundred eighty (180) days prior to the date which such amounts are paid from the Plan. Written consent shall be given within the 180 day period and shall include an acknowledgment of the effect of such election.

(d) A Participant, Former Participant or Alternate Payee may elect to commence distribution of benefits and may choose a benefit distribution option available under the Plan as specified in this Article IV. The failure of a distributee to elect a distribution while a benefit is immediately distributable shall be deemed an election to defer commencement of payment. In the event a distributee fails to elect a form of payment at the time that distributions are required to begin under Section 4.2, any benefits payable to the distributee will be made in a cash lump sum payment or in the form of a single life annuity payable over the life expectancy of the distributee in accordance with Code Section 401(a)(9) and the Regulations, as determined by the Administrator.

(e) Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's, Beneficiary's or Alternate Payee's benefits, whether under the Plan or through the purchase of an annuity contract, shall be made in accordance with the requirements of Code Section 401(a)(9) and Regulations issued thereunder. In the case of distributions which begin before the death of the Participant, all remaining benefits shall be distributed after the death of the Participant at least as rapidly as under the method of distribution elected as of the date of the Participant's death. Also, in the case of distributions which do not begin before the death of the Participant, all benefits payable to a Beneficiary of such Participant shall be paid in full within (i) the life of the Beneficiary, if the Beneficiary is the Participant's surviving spouse, or (ii) within fifteen (15) years after the death of a Participant for all other Beneficiaries.

4.2 REQUIRED MINIMUM DISTRIBUTIONS

Notwithstanding any other provisions of this Article IV, the distribution of a Participant Account shall meet the minimum distribution requirements of this Section 4.2 and Code Section 401(a)(9) and the Regulations issued thereunder. These minimum distributions shall be calculated each year by the Provider and shall be distributed in accordance with this section.

(a) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's Accounts will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's Accounts will be distributed, or begin to be distributed, no later than as follows:

a. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 ½, if later.

b. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

c. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's benefits will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

d. If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.2(a)(2), other than Section 4.2(a)(2)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.2(a)(2) and 4.2(c), unless Section 4.2(a)(2)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 4.2 (a)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.2(a)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.2(a)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Unless the Participant's accounts are distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with paragraphs (b) and (c) of this section 4.2. If the Participant's accounts are distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations issued thereunder.

(b) Required Minimum Distributions During Participant's Lifetime.

(1) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

a. the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

b. if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this paragraph (b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(c) Required Minimum Distributions After Participant's Death.

(1) Death On Or After Date Distributions Begin.

a. Participant Surviving By Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

1. The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

2. If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

3. If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

b. Non Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) Death Before Date Distributions Begin.

a. Participant Surviving By Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 4.2(c)(1).

b. No Designated Beneficiary. If the Participant dies before the date distribution begins and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's Accounts will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

c. Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.2(a)(2)(i), this Section 4.2(c)(2) will apply as if the surviving spouse were the Participant.

(d) Application of 5-Year Rule.

(1) Election by Participant or Beneficiary. A Participant or Beneficiary may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 4.2(a)(2) and 4.2(c)(2) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 4.2(a)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 4.2(a)(2) and Section 4.2(c)(2).

(2) Election By Current Beneficiary. A designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

(e) Definitions.

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 4.3 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(2) Required Beginning Date. The "Required Beginning Date" of a Participant who is a 5-percent owner is the April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½, except that the benefit distributions to a Participant (other

than a 5-percent owner) must commence by the later of the April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½ or retires.

(3) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 4.2(a)(2). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.

(4) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(5) Participant's Account Balance. The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by the distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(f) WRERA Elections for 2009 Calendar Year.

Notwithstanding any other provisions of this Section 4.2, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs") and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years, will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. In addition, notwithstanding Section 4.7 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, a direct rollover will include 2009 RMDs but only if paid with an additional amount that is an Eligible Rollover Distribution (as defined in Section 4.7(b)) without regard to Code Section 401(a)(9)(H).

4.3 DETERMINATION OF BENEFITS UPON DEATH

(a) A Participant or Former Participant shall have the right to designate a Beneficiary of his or her Participant Account for purposes of receiving the benefits payable under the Plan in the event of the death of the Participant prior to the distribution of his or her entire Participant Account. The designation of a Beneficiary shall be made on a form satisfactory to the Administrator and may be revoked or amended at any time by filing written notice of such revocation or change with the Administrator. In the absence of a valid and fully executed beneficiary designation, the benefit shall be payable to the Participant's estate. A Beneficiary or Alternate Payee with a Participant Account under the Plan may also designate a Beneficiary by submitting a completed designation form to the Administrator.

(b) Upon the death of a Participant, the Administrator shall direct that the deceased Participant's Participant Account be distributed to his or her designated Beneficiary in accordance with the provisions of this Section 4.3.

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Participant Account of a deceased Participant, Alternate Payee or Beneficiary, as the Administrator may deem appropriate. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) Death benefits payable to a Beneficiary shall be made in the form elected by the Beneficiary in accordance with the distribution procedures of Section 4.1. In the event a Beneficiary fails to make an election as to a benefit distribution option, any benefit payable to such Beneficiary shall be distributed in a lump sum payment no later than December 31 of the calendar year immediately following the year of the Participant's death in accordance with Code Section 401(a)(9).

(e) A designated Beneficiary who is not the surviving spouse of the deceased Participant may elect a direct rollover of the benefits at the time and in the manner prescribed by the Administrator. Any such distribution may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code established for the purpose of receiving the distribution on behalf of the designated Beneficiary and treated as an inherited IRA within the meaning of Section 408(d)(3)(C) of the Code. The Beneficiary must provide the Administrator with sufficient information to identify the status of the inherited IRA as well as the custodian of the funds to whom the direct transfer is to be made. Any distribution made in accordance with this provision shall be considered an "eligible rollover distribution" excludable from gross income for the year in which payment is made under Code Section 402(c)(1). If a Participant's designated Beneficiary is a trust, the trustee of such trust shall be permitted to elect a direct rollover to an individual retirement account in accordance with this subsection provided the beneficiaries of the trust otherwise satisfy the requirements to be designated beneficiaries within the meaning of Code Section 401(a)(9)(E) and the Regulations issued thereunder.

(f) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant, shall be made in accordance with this Article IV and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

4.4 DISTRIBUTION FOR MINOR BENEFICIARY OR INCOMPETENT

In the event a distribution is to be made to a minor, then the Administrator may direct that such distribution be paid to the parent, or if none, to the legal guardian of such Beneficiary or to the custodian of such Beneficiary under the Uniform Gift Transfers to Minors Act, if such is permitted by the laws of the state in which the Beneficiary resides. Such a payment to the parent or legal guardian of a minor Beneficiary shall fully discharge the Provider, any other providers of the Plan, Administrator, the District, and Plan from further liability on account thereof.

In the event a distribution is to be made to an incompetent, then the Administrator may direct that such distribution be paid to the duly appointed and currently acting conservator of the incompetent or to other such individual who is legally responsible for the incompetent as permitted by the laws of the state in which the incompetent resides. Such a payment to the conservator or other such individual who is legally responsible for the incompetent shall fully discharge the Provider, any other providers of the Plan, Administrator, the District, and Plan from further liability on account thereof.

4.5 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant, Alternate Payee or Beneficiary hereunder remains unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant, Alternate Payee or Beneficiary, the amount so distributable shall be held within the Investment Product, with investment direction provided by the Administrator, and remain an asset of the Plan. In the event a Participant, Alternate Payee or Beneficiary is subsequently located, -his or her benefit being held in such account, shall be restored, including any applicable interest, and paid, to the Participant, Alternate Payee or Beneficiary, in accordance with this Article IV.

4.6 WITHDRAWAL FOR EMERGENCIES

(a) A Participant or Beneficiary under the plan may request an Unforeseeable Emergency withdrawal subject to the following requirements:

(1) The request for an Unforeseeable Emergency withdrawal will be determined by the Administrator based on the relevant facts and circumstances of the claim.

(2) The request for an Unforeseeable Emergency may be made only to the extent that such emergency is or may not be relieved through:

- a. reimbursement or compensation from insurance or otherwise;
- b. liquidation of the Participant's or Beneficiary's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- c. cessation of the Participant's deferrals under the Plan.

(3) Distributions due to an Unforeseeable Emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

(b) A Participant or Beneficiary may request an Unforeseeable Emergency withdrawal by submitting that request in writing on the Plan's approved form to the Administrator, who will review and approve the request. If the request is denied, a request for review of the determination may be made in writing to such entity as the Administrator may designate, provided that such entity has accepted the designation. If the review of the determination fails to confirm a claim of Unforeseeable Emergency, an appeal may be made in writing to the appellate committee established by the Administrator. If at any time a request of an Unforeseeable Emergency withdrawal is approved, the District may thereupon direct the Provider to distribute so much of the Participant's or Beneficiary's account as is necessary to relieve the Unforeseeable Emergency, as determined by the Administrator.

4.7 DIRECT ROLLOVERS FROM THE PLAN

(a) Notwithstanding any provision of the Plan to the contrary, a Participant shall be permitted to elect to have all or any portion of an Eligible Rollover Distribution (as defined below) paid directly to an Eligible Retirement Plan (as defined in Section 3.7 (b)) specified by the Participant. The Participant shall, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the Eligible Retirement Plan to receive such rollover. Any portion of a distribution, which is not rolled over, shall be distributed directly to the Participant in accordance with his or her election.

(b) The rollover option described in subsection (a) above also applies to the surviving spouse who is the designated Beneficiary of the Participant or a spouse or former spouse who is an Alternate Payee, provided that such Beneficiary or Alternate Payee directs the transfer of an Eligible Rollover Distribution (as defined in Code Section 402(c)(4)) into an Eligible Retirement Plan (as defined in Section 3.7(b)).

(c) For purposes of this Section 4.7 and Section 3.7, "Eligible Rollover Distribution" shall mean any permissible distribution of all or any portion of a Participant's Account, except that it shall not include:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; or

(2) any portion that is a required minimum distribution under Code Section ~~401(a)(9)~~; or

(3) any distribution made under Section 4.6 as a result of an Unforeseeable Emergency.

4.8 PURCHASING SERVICE CREDITS UNDER A GOVERNMENTAL RETIREMENT SYSTEM

A Participant may direct the Administrator of the Plan to transfer all or a portion of his or her Participant Account, tax-free, to the fiduciary of a defined benefit governmental retirement system (as defined in Code Section 414(d)) provided such transfer is (i) to enable the Participant to purchase permissive service credits (as defined in Code Section under the system or (ii) to repay amounts previously cashed out under the system, within the meaning of Section 457(e)(17) of the Code, even if the Participant has not had a Severance from Employment. The Administrator shall take such reasonable measures as required to ensure that the intended recipient plan will accept such transferred amounts. Permissive service credit is not allowed with respect to service credit for which there is no performance of service. "Air time" credit is not permitted under state law.

4.9 TRANSFERS TO OTHER CODE SECTION 457(b) PLANS

(a) Following a distributable event listed in Section 4.1, a Participant or Beneficiary may elect to transfer all or a portion of his or her Participant Account to the Code Section 457(b) plan of an Employer. Such amounts shall be transferred at the Participant's or Beneficiary's election in accordance with Section 4.1, provided:

(1) The Code Section 457(b) plan to which the Participant's or Beneficiary's benefit is being transferred provides for the acceptance of such amounts;

(2) The Participant or Beneficiary has a benefit equal to the amount immediately after the transfer to least equal to the amount under the Plan immediately before the transfer; and

(3) In the case of a transfer made on behalf of a Participant, such individual has had a Severance from Employment with the District and is performing services for the employer maintaining the receiving plan.

(b) Upon the transfer of amounts under subsection (a), the Plan's liability to pay benefits to the Participant or Beneficiary under the Plan shall be discharged to the extent of the amount so transferred on behalf of the Participant or Beneficiary. The Administrator may require such documentation from the receiving Plan as it deems appropriate or necessary to comply with this Section 4.9 or effectuate the transfer pursuant to Regulation Section 1.457-10(b).

4.10 RECOGNITION OF APPROVED DOMESTIC RELATIONS ORDERS

In accordance with Code Section 414(p)(1) as modified by Code Section 414(p)(11), a Participant's or Former Participant's benefit may be the subject of a domestic relations order between the Participant or Former Participant and the Alternate Payee if the order is determined to be a "qualified domestic relations order" (as defined in Code Section 414(p)). The Administrator shall adopt reasonable procedures to determine the qualified status of domestic relations orders and to administer the distributions payable thereunder. Distributions may be made immediately to an Alternate Payee pursuant to a qualified domestic relations order before the date on which the Participant or Former Participant attains the earliest retirement age as defined in Code

Section 414(p)(4)(B).

4.11 MANDATORY DISTRIBUTION OF SMALL ACCOUNT BALANCES

The Administrator may direct a distribution of benefits from the Plan, without the Participant's or Former Participant's consent, in the following circumstances: (i) the total amount payable does not exceed \$5,000; (ii) no amount has been deferred under the Plan with respect to the Participant for a two (2) year period ending on the date of distribution; and (iii) no prior distribution has been made under this Section 4.11.

The value of a Participant Account for purposes of this section shall be determined without regard to the balances in either the Participant 457 Rollover Account or the Participant Non-457 Rollover Account.

Notwithstanding the foregoing, in the event the Participant Account exceeds \$1,000 (excluding the balance in the Participant 457 Rollover Account and/or the Participant Non-457 Rollover Account) and the Participant or Former Participant fails to elect a distribution method, then the Administrator will pay the distribution in a direct rollover to an individual retirement account designated by the Administrator.

ARTICLE V
ADMINISTRATION

5.1 POWERS AND RESPONSIBILITIES OF THE DISTRICT

(a) The District shall have full power to interpret and construe the Plan in a manner consistent with the terms and provisions of this Plan document and the provisions of Code Section 457 with respect to eligible governmental deferred compensation plans, including Regulations issued thereunder, and to establish practices and procedures conforming to those provisions. In all such cases the District's determination shall be final and conclusive upon all persons. It is recognized that unusual circumstances may occur and questions may arise that are not specifically covered by any provision of the Plan, and the District shall have the right to resolve all such questions. Notwithstanding the above, the District's power and responsibility under the Plan shall not extend to, nor have any control over, those responsibilities and duties of the Provider.

(b) The District shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

(c) The District shall periodically review the performance of any person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the District, through day-to-day conduct and evaluation, or through other appropriate ways.

5.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The District may appoint ~~the Executive Director/APCO to be the Administrator of the Plan. The Administrator may appoint~~ a committee ("Committee") of one or more persons to ~~serve as the Administrator and to~~ discharge the Administrator's responsibilities under the Plan. ~~The Committee may be governed by policies or procedures established by the Administrator. The District may remove a Committee member for any reason by giving such member ten (10) days written notice and may thereafter fill any vacancy thus created. If the District does not appoint a Committee to administer the Plan, the District shall be the Administrator.~~

5.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, the responsibilities of each Administrator may be specified by the District and accepted in writing by each Administrator. In the event that the District makes no such delegation, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the District in writing of such action and specify the responsibilities of each Administrator.

5.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and

discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any~~y~~ information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed an eligible deferred compensation plan under the terms of Code Section 457(b), and shall comply with terms of all Regulations issued pursuant thereto. The Administrator shall have all powers necessary or appropriate to accomplish their duties under the Plan. The Administrator shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) determine the amounts to be contributed to each Participant Account;
- (c) to authorize and direct the Provider with respect to all disbursements to which a Participant is entitled under the Plan;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to maintain practices and procedures necessary to administer the Plan as are consistent with the terms hereof;
- (f) to determine the type of any Investment Product to be purchased from the Provider; and
- (g) to assist any Participant regarding his or her rights, benefits, or elections available under the Plan.

5.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

5.6 APPOINTMENT OF ADVISORS

The Administrator may appoint/employ such agents, attorneys, actuaries, accountants, auditors, investment counsel, and clerical assistants, and other persons as the Administrator deems necessary or desirable in connection with the administration of the Plan.

5.7 INFORMATION FROM THE DISTRICT

To enable the Administrator to perform his or her functions, the District shall

supply the necessary information to the Administrator on a timely basis regarding the Participants under the Plan, including but not limited to Compensation, date of hire, date of death, Severance from Employment, and such other pertinent facts and data as the Administrator may require. The Administrator may rely upon such information as is supplied by the District and shall have no duty or responsibility to verify such information.

5.8 PAYMENT OF EXPENSES

All expenses of administration will be paid by the District. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan.

ARTICLE VI
MISCELLANEOUS

6.1 ASSETS FOR EXCLUSIVE BENEFIT OF PARTICIPANTS AND BENEFICIARIES

Notwithstanding any contrary provision in the Plan, in accordance with Code Section 457(g), all amounts in the Participant Accounts under the Plan, all property and rights which may be purchased with such amounts and all income attributable to such amounts, property or rights shall be held and invested in trust (or a custodial account or annuity contract described in Code Section 401(f), issued by an insurance company qualified to do business in the state where the contract was issued) for the exclusive benefit of Participants, Former Participants, Alternate Payees and their Beneficiaries and for defraying reasonable expenses of the Plan and of the Trust. All such amounts shall not be subject to the claims of the District's general creditors.

It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the trust, custodial account, or annuity contract to be used for, or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries. Any trust under the Plan shall be established pursuant to a written agreement between the Employer and Trustee which constitutes a valid trust under the law of the State of California. The custodian of any custodial account created pursuant to this Section 6.1 must be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of Paragraph (2)-(6) of Section 1.408-2(e) of the Regulations relating to the use of non-bank trustees.

6.2 PARTICIPANT'S RIGHTS

The Plan shall not be deemed to constitute a contract between the District and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in the Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the District or to interfere with the right of the District to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him or her as a Participant of the Plan.

6.3 ALIENATION

No benefit which shall be payable to any person (including a Participant or his or her Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

6.4 ~~IRS LEVY.~~

Notwithstanding Section 6.3, the Administrator may pay from a Participant's, or Beneficiary's Account the amount that the Administrator finds is lawfully demanded under a levy

issued by the Internal Revenue Service with respect to the Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant, Former Participant or Beneficiary.

6.5 CONSTRUCTION OF PLAN

The Plan shall be construed and enforced according to applicable federal law and, to the extent other applicable, the laws of the state in which the District is located.

6.6 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in one other form in all cases where they would so apply.

6.7 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, Former Participant, Alternate Payee, Beneficiary, or to any guardian or conservator appointed for such individual in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Provider, Administrator and the District.

6.8 MILITARY SERVICE AND LEAVE OF ABSENCES

(a) Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u). A Participant whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional contributions under Article III upon resumption of employment with the District. Such additional contribution shall be equal to the maximum amount that the Participant could have deferred during that period if the Participant's employment with the District had continued (at the same level of Compensation) without the interruption or leave, reduced by any amounts deferred on behalf of the Employee during the period of the interruption or leave. Such additional contribution shall be made no later than five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

Effective for years beginning after December 31, 2008, an individual receiving from the Employer a differential wage payment, as defined in Code Section 3401(h)(2), shall be treated as an Employee of the Employer and the differential wage payments shall be treated as Compensation for purposes of determining vesting and benefit accrual. The Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

In the case of a Participant who becomes disabled or dies during qualified military service on or after January 1, 2007, the Participant or his or her designated Beneficiary

shall be entitled to any additional benefits provided under the Plan as if the Participant had resumed employment with the Employer on the day preceding death or disability and then terminated employment on the actual date of the death or disability.

(b) Approved Leave of Absence with pay shall not affect agreements with Participants in the plan.

(c) Approved Leave of Absence without pay shall be considered to be temporary revocation of the Participant's agreement to participate in the Plan. Participation in the Plan will be automatically reinstated as of the first day of the next period subsequent to the termination of the leave of absence status.

6.9 PRE-1979 ACCOUNTS

Any amounts held by the District as a result of deferrals made by a Participant prior to January 1, 1979 shall be held under the Plan from and after the latest of (a) the Effective Date; (b) the date on which the Participant elects to have the Plan apply to such amount; or (c) the date on which such Participant exercises any right or power available under the Plan but not under the Plan agreement pursuant to which such deferral was made. All such persons who were Participants in any prior plan, who exercise any such right or privilege and who have not yet received a distribution of the amounts to which they are entitled under such prior plan shall be deemed to be Participants under the Plan for all purposes.

6.10 MISTAKEN CONTRIBUTION

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

6.11 COPIES OF THIS PLAN

A copy of the Plan shall be made available to all eligible employees prior to their enrollment in the Plan.

ARTICLE VII
AMENDMENT AND TERMINATION

7.1 AMENDMENT

(a) The District shall have the right at any time to amend the Plan subject to the limitations of this section. Any such amendment shall become effective as provided therein upon its execution.

(b) No amendment to the Plan shall be effective if it authorizes or permits any part of the Investment Product (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of Participants, Former Participants, Alternate Payees or Beneficiaries; or causes any reduction in the amount credited to the account of any Participant, Former Participant, Alternate Payee or Beneficiary; or causes or permits any portion of the Investment Product to revert to or become property of the District.

7.2 TERMINATION

(a) The District shall have the right at any time to terminate the Plan by resolution of its governing board. In addition, the District must deliver written notice of discontinuance of the Investment Product to the Provider.

(b) Upon the full termination of the Plan, the District shall direct the distribution of the assets to Participants in a manner which is consistent with and satisfies the provisions of Article IV as soon as administratively practicable after termination of the Plan.

7.3 TRANSFER OF ENTIRE PLAN ASSETS TO ANOTHER ELIGIBLE PLAN WITHIN THE SAME STATE

The transfer of assets from the Plan to another 457(b) plan within the same State must meet the requirements of Code Section 457(b) and Regulation Sections 1.457(b)-10 (b).

IN WITNESS WHEREOF, the Employer adopts this ~~Restated~~Revised Plan on _____, 20119.

EMPLOYER:

MOJAVE DESERT AIR QUALITY
MANAGEMENT DISTRICT

By: _____
Jeff Williams
Governing Board Chair

APPROVED AS TO FORM AND CONTENT:

BEST BEST & KRIEGER LLP

By: - _____
John D. Wahlin
Attorneys for Employer



Investment Policy Statement for 457(b) Deferred Compensation Plan

Version: April 2008

September 23, 2019

**Mojave Desert
Air Quality
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**INVESTMENT POLICY STATEMENT
FOR 457(b) DEFERRED COMPENSATION PLAN**

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Investment Policy Statement for 457(b) Deferred Compensation Plan

SECTION 1: PURPOSE OF THE INVESTMENT POLICY STATEMENT

The purpose of this document is to formalize the policy and procedures used by the Mojave Desert Air Quality Management District ("District") to communicate to the Plan Provider¹ and Plan Administrator² the policies regarding the investment of ~~457(b) plan ("Plan")~~ the assets included in the "Mojave Desert Air Quality Management District Deferred Compensation Plan (Internal Revenue Code Section 457(b) Plan)," incorporated and referenced herein as part of this Investment Policy Statement, and the development of an appropriate investment program. This document will also be used as the basis for ~~future~~ performance measurements and evaluation of the specific investments available under the Plan.

Investment Products³ available under the Plan will be determined by ~~an Investment~~ the Deferred Compensation Committee ("Committee") appointed by the Plan Administrator. ~~Such Investment~~ The Committee shall be governed by policies or procedures established by the Administrator [Standard Practice 3-5] comprised of the Director of Administrative Services, the Human Resources Specialist, and one employee each from the represented and exempt employee groups. The specific employees serving on the Investment Committee may be changed from time to time according to the procedure set forth in section 4 of this document.

The availability of specific Investment Products under the Plan is the responsibility of the ~~Investment~~ Committee. The ~~investment goal of the~~ Committee's ~~goal~~ is to provide ~~p~~Plan participants⁴ with an array of suitable selections with the objective of reducing fees, expenses, and administration fees normally associated with Investment Products.

SECTION 2: PLAN OBJECTIVES

The investment options in the 457(b) Plan should provide participants with a full breadth of choice across the available asset classes and investment styles. The primary objective of this plan is to afford the participant employees with the opportunity to invest some portion of their salary in professionally managed investment vehicles. Another objective is to provide participants with a breadth of investment choices. Individual participants have the opportunity and responsibility for making individual investment decisions. These investment options will be either mutual funds governed by the Investment Company Act of 1940 or similarly designed institutional "separate account" portfolios.

Another Plan objective is to ensure the availability of information to participants. The Plan will also promote ongoing investment education and communication with employees.

¹ See Mojave Desert Air Quality Management Deferred Compensation Plan 457(b); Article I, Definition 1.23.

² See Mojave Desert Air Quality Management Deferred Compensation Plan 457(b); Article I, Definition 1.1.

³ See Mojave Desert Air Quality Management Deferred Compensation Plan 457(b); Article I, Definition 1.13.

⁴ See Mojave Desert Air Quality Management Deferred Compensation Plan 457(b); Article I, Definition 1.15.

A prospectus will accompany any and all investment options made available. A copy for each option must be submitted to the ~~Investment~~ Committee ~~initially and annually thereafter~~.

Investment Style Diagram of Investment Choices

Global / International Equity Options		
VALUE	BLEND	GROWTH
	International Core	

U.S. Equity Options		
VALUE	BLEND	GROWTH
Large Cap	Large Cap	Large Cap
Mid Cap	Mid Cap	Mid Cap
Small Cap	Small Cap	Small Cap

Asset Allocation (Lifecycle Portfolios)		
Conservative	Moderate	Aggressive
Target Date Income	Target Date 2015	Target Date 2025
Target Date 2035	Target Date 2045	

Fixed Income		
Int Term Corp Bond	High Yield Bond	Stability of Principal

**SECTION 3:
RESPONSIBILITIES OF PLAN PARTICIPANTS**

The responsibility for the amount of retirement benefits belongs in part to each participant. Participants are responsible for:

- Determining how much to contribute as a deferral of their pay, up to the limit allowed by law each year, and
- Allocating their monies among the core investment alternatives offered by the Plan
- Avoiding excessive trading in the same investment option within certain time periods.

An third party independent Investment Advisory Service may be retained in order to satisfy the needs of participants who are unsure of how to invest their monies after having received communications and education materials, or those who lack the time and/or resources to make an informed decision.

For participants selecting funds on their own, the mix of investment options appropriate for a participant depends on the combination of a number of factors, including, among others but not limited to, age, current income, length of time to retirement, tolerance for investment risk, income replacement/supplement objectives, and a participant's other assets. To permit participants to establish different investment strategies, the ~~p~~Plan may offer up to not fewer than 12 investment categories, which have varying return and volatility characteristics. It is the responsibility of each participant to evaluate the investment options and to select an appropriate mix.

With respect to the selection of funds by participants, the mix of investment options appropriate for a participant depends on the combination of a number of factors, including;

- Volatility:** The risk of significant decreases in account value (including the loss of principal) over relatively short periods of time.
- Accumulation:** The risk of not accumulating sufficient assets to retire.
- Understanding:** The risk of investing for the wrong reasons.
- Diversification:** The risk of concentrating investments and suffering large losses from a single investment category or similar categories that do not perform well.

Participants can control their exposure to accumulation and volatility risks by allocating investments among these options. For example, a participant nearing retirement with high sensitivity to volatility risk might invest more heavily in the Stable Income Fund than a participant with many years to retirement. Many other investment options exist. This number and these types were selected because they: 1) each offer a distinct utility to the participants; 2) provide a spectrum of volatility and accumulation choices; and can be administered, communicated and understood within practical constraints of the Plan's resources.

SECTION 4:
ROLES AND RESPONSIBILITIES OF THE PLAN PROVIDER AND THE INVESTMENT COMMITTEE

The Committee shall have the power to perform all the duties necessary to select and oversee the core investment funds in the Plan. The Committee may retain an investment consultant, appoint staff, or appoint a designee to perform the duties described below.

The Committee's responsibilities include, but are not limited to, the following:

- Establish and maintain the Investment Policy.
- Review the Investment Policy at least annually to make modifications as necessary.
- Determine the number, and type of investment funds to offer in the Plan.
- Select professionally managed funds.
- Monitor and evaluate investment performance on a semi-annual and ongoing basis.
- Determine investment fund changes.
- Monitor investment expenses.
- Promote communication and education through the ~~pPlan pProvider (ING)~~ to help participants understand the objectives of each investment fund to make investment decisions aligned with their individual objectives.

The Plan Provider's responsibilities include, but are not limited to, the following:

- Recommend ~~draft proposal~~ and updates to the Investment Plan when appropriate.
- Review the Investment Policy at least annually to provide any recommended changes.
- Recommend the number, and type of investment funds to offer in the Plan
- Recommend professionally managed funds.
- Provide information and recommendations on investment performance ~~on a at least~~ semi-annually ~~and ongoing basis~~
- Provide information and recommend investment fund changes.
- Advise Committee on investment expenses.
- Provide communication and education to help participants understand the objectives of each investment fund to make investment decisions aligned with their individual objectives.
- Provide a layer of due diligence oversight in addition to that performed by the Committee. This due diligence includes producing, twice annually, ~~the ING Fund an~~ Evaluation Scorecard. This process ranks each investment option against an appropriate peer group, over multiple time periods and after evaluating nine distinct criteria, determines a final score, assisting the Committee to make informed decisions.

SECTION 5:
INVESTMENT SELECTION CRITERIA

Investment Fund Selection - Stable Value Fund

There are several different types of stable value funds, including separate and general account annuity products, GIC funds and FDIC products. ~~Also, there is not, f~~For most of these products, ~~there is not~~ a standardized database with performance and other pertinent information that would enable a search process to be conducted. There ~~is also may be~~ a need to enter into negotiations with the provider regarding investment strategy and style in situations where that is in the discretion of the plan sponsor.

For these reasons, the selection of one or more stable value fund products ~~will~~may be conducted through a written request for proposal process to the appropriate vendors.

Mutual Fund Section

I. Alignment of Mutual Funds

- A. Mutual funds offered by the Plan will be by groupings of like investment policy and risk (volatility of returns).
- B. Contracted fund providers will be used to determine the groupings of mutual funds including index funds, if appropriate, by investment option characteristics. These investment option characteristics are subject to annual verification by the Committee.
- C. Categories to be offered: See Section 2.
- D. At the time of selection, the fund category established by the contracted fund providers for the previous six quarters, will determine the category placement of a fund under the Plan. In the event that a fund has not had consistency of placement within a category over the six quarters prior to selection, it shall be placed in the category most recently determined by contracted fund providers. The placement of a fund within its category may be a consideration in its selection. For example, if a fund has consistently, over a period of time, moved toward the outside ranges of its category, it may not be an appropriate candidate for selection since it may have a high probability of changing categories.

II. Selection of Funds

The Plan Provider will provide relevant information, advice and recommendations with respect to the selection process. The selection process will be documented throughout to provide a history of initial screening, funds deleted, the reasons for the deletion and factors considered by the Plan Provider and the Committee in the final selection.

III. Minimum Criteria for Selection

- A. Minimum Size and History Criteria
 - 1. Size - to be considered a fund should be at least \$100 million. The intent is to restrict selection of mutual funds to the size appropriate for the potential cash flow to be generated by the Plan. If, however, this restriction reduces the potential pool of semi-finalists inappropriately, this criterion may be reduced to broaden selection.
 - 2. Period of time in operation- a mutual fund (or a clone fund under the same management) should have been in operation for a period of 5 years prior to selection.
- B. Minimum Operational Criteria - To be considered for inclusion in the Plan, a fund should first meet the size and history criteria above. Next it must satisfy the Minimum Operational Criteria.
 - 1. It must guarantee transactions at the prior day's price.
 - 2. Front end loads and fund surrender charges must be waived. All other fees must be fully disclosed.

3. It must be compatible with the Plan's administrative and record keeping accounting and system practices.

SECTION 6: **INVESTMENT OPTION PERFORMANCE STANDARDS**

The standards by which the performance of each such investment fund will be measured are set forth in Exhibit A. Performance will be measured over a complete economic cycle (generally a three to five year period).

If a fund fails to perform at the expected investment return levels, or has exhibited significant qualitative factor changes, a replacement fund and/or manager search will be initiated. If, after completion of the search, it remains clear that the fund and/or manager should be replaced, the process of termination should commence, coinciding with the addition of the replacement fund and/or manager.

The **Investment** Committee, **pPlan aA** administrator, investment consultant, staff, or designee may use benchmarks other than those described in Exhibit A if the Committee determines that there is a more appropriate index to measure fund performance.

SECTION 7: **INVESTMENT MONITORING AND REPORTING**

The Committee does not expect to be reactive to short-term investment developments. Furthermore, the Committee recognizes that the accumulation of wealth for eventual retirement benefit payout is long-term in nature and that investment competence must be measured over a complete market cycle (generally a three to five year period). The Committee, nevertheless, may act on interim qualitative judgments. Such action may include immediate termination of the investment option. Qualitative criteria include, but are not limited to:

- fundamental changes in a manger's investment philosophy
- changes in a manager's organizational structure, financial condition (including any significant changes in total assets under management)
- changes in key personnel
- changes, relative to their peers, in the manager's fee structure

In addition, the Plan Provider will review the trading activity of the participant base to determine if there is activity that would run afoul of the Excessive Trading Policy or the proscribed rules.

Watch List Statement of Process

The investment fund manager's failure to remedy the fund's unsatisfactory performance, within a reasonable time, may be grounds for termination by the Committee. Any recommendation by the **pPlan pP** provider to terminate a fund will be made only after a thorough and documented analysis, including but not limited to, a review of qualitative and quantitative data. Each fund will be considered on an individual basis, and will not be judged solely on quantitative data.

Qualitative Watch List Status Criteria

- a) There is a disruption or a change in company ownership.
- b) There is a change in key personnel for the fund or the company.
- c) There is a change in investment process/style.
- d) There is a violation of SEC rules or regulations.
- e) Other qualitative issues that the Committee believes may have a material impact on the future performance of an investment fund, a significant change in the level of assets and/or number of accounts, systems or operational changes, etc.

Quantitative Watch List Status Criteria

The designation of "Watch List" will indicate the Committee's concern about the long term fundamentals of the targeted fund. Funds may be given "Watch List" status if the fund received an overall score below 4.0 using the nine factors and weightings listed in Exhibit A.

The Committee may terminate a fund immediately without placing it on "Watch List" status if it believes immediate termination is in the best interest of the participants.

The Committee retains full authority to determine when a fund option is to be terminated. Quantitative rankings or results alone will not determine this. The Committee may use its discretion to extend the below stated time periods for a fund.

Watch List Procedures and Fund Termination

- 1) Once a fund is formally placed on "Watch List" status, the fund can be monitored for a period of up to, but not to exceed, twenty-four months. The Committee, at its discretion, may determine to terminate the investment fund at any time during the twenty-four month period. Funds remaining on "Watch List" status after the twenty-four month period that have not remedied the circumstances that caused them to be placed on such status shall be terminated by the Committee at its discretion.
- 2) A fund will be removed from "Watch List" status only after the Committee determines that the fund is meeting expectations, and/or has met the compliance requirements of the fund, and that the fund does not fall within any of the criteria listed above for "Watch List" status.
- 3) The following procedures should be followed once a fund has been placed on "Watch List" status:
 - a) A conference with the fund manager will take place at which time the fund manager will have an opportunity to explain the recent under-performance and discuss any action plan to help remedy the poor performance and/or address the qualitative concern(s). Any explanation provided by the fund manager at the conference must be presented in writing to the Committee.
 - b) The fund manager of the fund on "Watch List" status must report relevant qualitative and quantitative data quarterly to the Committee or their designees. The report should include information pertaining to the issue(s) including, but not limited to:
 - Status update of action plan;
 - Personnel;
 - Process;
 - Investment strategy;

- Performance vs. benchmark and peer average;
 - Cash position; and
 - Sector weights vs. style specific index.
- c) The plan provider shall provide to the Committee for review any additional data pertinent to the circumstances surrounding the issue(s) that placed the fund on "Watch List" status.
- d) A fund may be terminated if the Committee determines the fund is unable to:
- Achieve performance and risk objectives;
 - Improve performance;
 - Provide stable performance;
 - Maintain an expected investment style; and/or
 - Comply with reporting requirements.
 - Other reasons as determined by the Committee.

Replacement of an Investment Fund and/or Manager

Replacement of an investment fund and/or manager would follow the criteria outlined in Section 5 under "Investment Selection Criteria." An investment fund to be terminated shall be removed using one of the following approaches:

- Remove and replace (map assets) with a replacement fund;
- Freeze the fund to any new deferrals and direct new deferrals to a replacement fund;
- Phase out the fund over a specified time period;
- Continue the fund but add a competing fund; or
- Remove the fund and do not provide a replacement fund.

Participants will have the option to transfer to an existing core investment fund at the time of a fund termination. If the participant does not select the option to transfer to an existing core investment fund at the time the terminated fund is removed, all assets will be mapped and transferred to the replacement fund, if available, or to an existing fixed account option until the participant elects to redirect the assets to a new fund.

Exhibit A

Evaluation Factors for style specific stock and/or bond funds

Factor 1: Average Annual Performance

The 1,3,5 and 10-year average annual performance of the investment option is evaluated as of the most recent quarter-end relative to the respective peer group. The average annual performance is net of all fund level expenses (management fees, administrative expenses, and 12b-1 fees).

Factor 2: 24-month Rolling Window Performance

The 24-month rolling window performance evaluates the "consistency" of performance by using a rolling "window" quarter methodology. Each performance number represents an average performance over the last 24-month period and each quarter is included in the analysis. A fund inceptioned in 1993 will have as its first performance period, January 1993 to December 1994 (24-month window). The second performance period analyzed will be April 1993 (one quarter from January 1993) to March 1995 (again, a 24-month window). All time periods between inception of the fund (or 10 years) to the most recent quarter will be reviewed. Again, performance is net of all fund level expenses (management fees, administrative expenses, and 12b-1 fees).

Factor 3: 24 Month Rolling Alpha

Alpha is used as a measure of value added by a Manager. A positive Alpha indicates a manager has performed better than its Beta would predict. Alpha will be evaluated to determine the "Consistency" of performance of the manager by using a rolling "window" quarter methodology similar to what is described in the 24 month rolling window performance

Factor 4: Standard Deviation

Standard deviation is a statistic calculated using historical performance that measures how widely dispersed a fund's returns have varied from its mean. Investors use standard deviation to try and predict the range of returns that are most likely for a given fund. A fund with a standard deviation of 5.0% and an annualized return of 10.0% implies that the historical returns of the fund have generally fallen between 5.0% and 15.0%. The smaller the variability of returns implies lower volatility. Standard deviation is a good measure of risk when evaluating a single position within a portfolio.

Factor 5: Upside/ Downside Market Capture

Up Market Capture is the average return of the portfolio calculated using only periods where the market return is positive. Market return is measured by the monthly return of the selected benchmark. An up market capture of greater than 100% is considered desirable. Downside Market Capture is the average return of the portfolio calculated using only periods where the market return is negative. Market return is measured by the monthly return of the selected benchmark. A down market capture of less than 100% is considered desirable. The capture numbers are represented graphically against its peers. Location in the Northwest quadrant of the graph indicates a capture of more of the upside performance of the market and less participation in the market on the downside.

Factor 6: Scattergram

Scattergram plots a fund graphically against its peer group to visually illustrate the risk/return

tradeoff Funds in the Northwest quadrant of the chart are preferred because that position represents a fund demonstrating greater returns with less risk relative to its peers.

Factor 7: Sharpe Ratio

The Sharpe Ratio is a measure of reward per unit of risk assumed. It tells us whether the returns of a portfolio are because of smart investment decisions or a result of excess risk. This measurement is very useful because although one portfolio or fund can reap higher returns than its peers, it is only a good investment if those higher returns do not come with too much additional risk. The greater a portfolio's Sharpe ratio the better its risk-adjusted performance has been. A 24-month rolling quarter Sharpe ratio is calculated and measured against its peers.

Factor 8: Consistency of Style

Style charts examine investment trends of the portfolio over time. A number of parameters can be identified based on the type of fund. For equity portfolios, one can determine the size of the companies invested in and investment methodology (growth, value or blend). For bond funds, the data focuses on key elements of fixed income performance - maturity/duration and credit quality. These charts are useful in determining whether a fund is investing according to its primary investment objective and, more importantly, if a fund is investing using a consistent style orientation over time.

Factor 9: Total Fund Expenses

Total fund expenses include all fees and charges for the fund, but do not include fees and charges for the variable insurance contract. Total fund expenses vary based on the particular asset class and are, therefore, evaluated against similarly-managed funds.

Evaluations of the Nine Investment Policy Statement Factors

Each of the nine "Evaluation Factors" will be reviewed on a semi-annual basis. Each factor will be scored using a 1-5 scoring system as described below. The percentile rankings are based off a system of zero being the best and 100 being the worst.

Average Annual Performance

- 24-month Rolling Window Performance
- 24 Month Rolling Alpha
- Standard Deviation
- Sharpe Ratio
- Expense Ratio

The factors listed above will use the following scoring system:

- 5 Points = Fund has performed in the 0 - 10th percentile range.
- 4 Points= Fund has performed in the 11th - 30th percentile range.
- 3 Points= Fund has performed in the 31st - 50th percentile range.
- 2 points = Fund has performed in the 51st - 70th percentile range.
- 1 point = Fund has performed in the 71st - 90th percentile range.
- 0 points = Fund has performed in the 90th - 100th percentile range.

The **Upside/Downside Market Capture Ratio** and **Scattergram** will also be evaluated using a 1-5 scoring system, but these two factors will receive scores based off the location of the fund within a risk/reward grid.

- 5 Points = Fund is in the Northwest (NW) quadrant (NW)
- 4 Points = Fund is in the Central North (CN) or Central West (CW) quadrant
- 3 points = Fund is in the Southwest (SW), Northeast (NE) quadrant, or Centralized (C)
- 2 points = Fund is in the Central East (CE) or Central South (CS) quadrant
- 1 point = Fund is in the Southeast (SE) quadrant

Consistency of Style will be scored based off how much the fund holds in "other investments" and will be scored using the following scoring system.

"Other investments" are those investments that may help to generate excess returns but are not "consistent" with the primary investment style or stated objective. For example, the primary objective of an international equity fund is to invest in international equities. However, if the US or other asset classes (bonds or cash) are generating stronger returns than the international equities, the portfolio manager may hold a certain percentage of the portfolio in these positions. These positions would be considered "other investments" and, therefore, detract from the fund's consistency of style score. A fund that has less than 10% in "other investments" is given the maximum score of 5 points indicating that the fund invests consistently to its stated investment style.

- Fund's "other investments" are 10% or under: 5 points
- Fund's "other investments" are between 11%-20%: 4 points
- Fund's "other investments" are between 21%-30%: 3 points
- Fund's "other investments" are between 31%-40%: 2 points
- Fund's "other investments" are between 41%-50%: 1 point
- Fund's "other investments" are greater than 51%: 0 points

After each individual factor is scored, the following weighting will be applied to each factor to come up with a total overall score:

The total scores for Average Annual Performance, 24 month Rolling Window Performance and 24 month Rolling Alpha will be added and multiplied by **30%**

The total score for Standard Deviation and Upside/Downside Market Capture will be added and multiplied by **20%**

The total scores for Scattergram and Sharpe Ratio will be added and multiplied by **20%**

The total scores for Consistency of Style will be added up and multiplied by **20%**

The total scores for Total Fund Expense will be added up and multiplied by **10%**

Once all the final scores are added up using the five broad criteria listed above the fund will receive an overall grade between 1-10.

The grading range is as follows:

Score	Grade
8 - 10	Excellent
7.0 - 7.9	Very Good
6.0 - 6.9	Good
5.0 - 5.9	Peer Average
4.0 - 4.9	Fair
< 4.0	Watch List



401(a) Matching Contribution Plan

September 23, 2019

Restated Effective January 1, 2013
Original Effective Date July 1, 2010

(Prepared by Best Best & Krieger LLP)

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Mojave Desert Air Quality Management District

401(a) Matching Contribution Plan

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MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
401(a) MATCHING CONTRIBUTION PLAN

INTRODUCTION

A. MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT (“Employer”), adopted the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT 401(a) MATCHING CONTRIBUTION PLAN (the “Plan”) for the benefit of its Employees and their Beneficiaries, effective July 1, 2010.

B. It is necessary for the Employer to amend and restate the Plan to comply with the Pension Protection Act of 2006 (“PPA”), Heroes Earnings Assistance and Relief Tax Act of 2008 (“HEART”), Worker, Retiree, and Employer Recovery Act of 2008 (“WRERA”) and other regulatory related guidance.

C. Accordingly, the Employer hereby amends and restates the Plan effective January 1, 2013 except as otherwise indicated.

ARTICLE I
TITLE

This Retirement Plan shall be known as the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT 401(a) MATCHING CONTRIBUTION PLAN.

ARTICLE II
COMMENCEMENT DATE

The first Plan Year shall commence on July 1, 2010 and end on June 30, 2011. Effective for the Plan Year ending on December 31, 2011, “Anniversary Date” shall mean December 31st of each year.

ARTICLE III
GENERAL DEFINITIONS

For purposes of the Plan, the following words and phrases, when used herein, shall have the following meanings, unless their context clearly indicates otherwise or an Article specifically provides otherwise:

3.1 Account. “Account” or “Accounts” shall mean any of the individual accounts maintained by the Employer to record a Participant’s interest in the Trust.

3.2 Administrator. “Administrator” shall mean the Employer, as described in Article V.

3.3 Beneficiary. “Beneficiary” shall mean a person who will become entitled to receive benefits under the Plan upon the death of a Participant, as provided in Article XI.

3.4 Code. “Code” shall mean the Internal Revenue Code of 1986, amendments thereto and Regulations issued thereunder.

3.5 Compensation. “Compensation” shall mean:

(a) a Participant’s wages or salary paid by the Employer during the Plan Year within the meaning of Code Section 3401(a).

(b) For the purposes of applying the limitations under Code Section 415, “Compensation” paid or made available during the Plan Year shall also include differential wage payments under Code Section 3401(h), any amount which is contributed or deferred by the Employer at the election of Employee and which is not includible in the gross income of the Participant by reason of Code Section 125, 132(f)(4), 457, 402(h) and 403(b).

(c) Effective for Plan Years beginning on or after July 1, 2007, “Compensation” shall also include any amount which is paid within two and one-half (2.5) months following a Severance from Employment or by the end of the Plan Year in which the Severance from Employment occurs, including the following types of payments:

(1) Regular Pay. Compensation attributable to services performed by Employee during the Employee’s regular working hours as well as outside the Employee’s regular working hours (including overtime, commissions, bonuses, or other similar payments) and which would have been paid prior to the Employee’s Severance from Employment if the Employee had continued in employment with Employer.

(2) Accrued Paid Leave. Amounts paid for unused accrued bona fide sick, vacation or other leave provided the Employee would have been able to use the leave prior to Severance from Employment.

(3) Deferred Compensation. Compensation paid to the Employee pursuant to a nonqualified deferred compensation plan sponsored by the Employer and includible in the Employee’s gross income so long as the payment would have been made if the Employee had continued in employment with Employer.

“Compensation” shall not include any severance payments or salary continuation payments paid by the Employer due to military service or Disability.

3.6 Compensation Limit. “Compensation Limit” shall mean the maximum amount of Compensation (as defined in Section 3.5 pursuant to Section 414(s) of the Code and the Regulations issued thereunder) that shall be ~~taken into account~~considered for each Participant

during each Plan Year for determining all benefits provided under the Plan, as provided herein. The annual Compensation Limit for each Participant for any Plan Year beginning on or after January 1, 2013 shall be \$255,000, as adjusted by the Commissioner of Internal Revenue for increases in the cost-of-living in accordance with Code Section 401(a)(17)(B). Annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the “determination period”). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. If a determination period consists of fewer than 12 months, the annual Compensation Limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If Compensation for any prior determination period is ~~taken into account~~considered in determining a Participant’s allocations for the current Plan Year, the Compensation for such prior determination period is subject to the applicable annual Compensation Limit in effect for that prior period.

3.7 Computation Period. “Computation Period” shall mean each twelve (12) month period designated in the Plan for the purposes of determining vesting and benefit accrual.

3.8 Deferred Compensation Plan. “Deferred Compensation Plan” shall mean the eligible 457(b) deferred compensation plan known as the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT DEFERRED COMPENSATION PLAN.

3.9 Disability. “Disability” shall mean the inability of a Participant to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. A Participant shall be considered permanently and totally disabled for purposes of this Plan, upon providing the Plan Administrator notice of a Social Security disability determination.

3.10 Employee. “Employee” shall mean any person employed by the Employer working more than 20 hours per week and whose Compensation is subject to withholding of federal and state income tax and/or for whom Social Security contributions are made by the Employer. “Employee” shall not include any Leased Employees, as defined in Code Section 414(n)(2).

3.11 Employer. “Employer” shall mean the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT.

3.12 Forfeiture. “Forfeiture” shall mean the portion of the Account of a Participant to which he or she has lost any claim for an immediate or deferred benefit.

3.13 Fund or Trust Fund. “Fund” or “Trust Fund” shall mean all monies, securities and assets held by the Trustee for the benefit of Participants of the Plan.

3.14 Investment Manager. “Investment Manager” shall be the individual or entity engaged by the Employer to maintain all necessary records for the administration of the Plan and Trust. The Investment Manager shall also be responsible for retain, sell, exchange, and to invest trust funds subject to the authorization of the Trustee.

3.15 Limitation Year. “Limitation Year” shall mean the Plan Year for the purposes of applying the limitations of Section 415 of the Code.

3.16 Normal Retirement Date. “Normal Retirement Date” for each Participant shall mean the later of the date on which the Participant reaches the age of 55 years or completed five (5) Years of Service. Each Participant shall be entitled to retire on such date. In the event a Participant continues in active service after reaching his or her normal retirement age, he or she shall continue to participate in the Plan.

3.17 Participant. “Participant” shall mean an Employee or former Employee who has become eligible to acquire either a forfeitable or nonforfeitable interest in the Trust which has not become distributable and who has not waived his or her right of participation.

3.18 Plan. “Plan” shall mean the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT 401(a) MATCHING CONTRIBUTION PLAN set forth herein, including all subsequent amendments or modifications.

3.19 Plan Year. “Plan Year” shall mean the twelve (12) consecutive month period adopted by the Employer. The first Plan Year shall commence on July 1, 2010 and end on June 30, 2011. The second Plan Year shall be a Short Plan Year of less than twelve (12) consecutive months commencing on July 1, 2011 and ending on December 31, 2011. The third Plan Year and all successive Plan Years shall mean the twelve (12) month period commencing on January 1 of each year and ending on December 31. In the event that a Short Plan Year is in effect, all references to “Plan Year” shall be replaced by “Short Plan Year” in all instances where it is appropriate.

3.20 Severance from Employment. “Severance from Employment” shall mean the Participant’s cessation of employment from or by the Employer sponsoring the Plan. An Employee shall be treated as having experienced a Severance from Employment during a period of qualified military service (as described under Code Section 414(u)).

3.21 Trust. “Trust” shall mean the Trust established pursuant to Article IV and the accompanying Trust Agreement.

3.22 Trustee. “Trustee” shall mean the Trustee or the successors of such Trustee named under the Trust Agreement executed concurrently with the Plan pursuant to Article IV.

3.23 USERRA. “USERRA” shall mean the Uniformed Services Employment and Reemployment Rights Act.

3.24 Year of Service. “Year of Service” shall mean the period during which an Employee completes twelve (12) consecutive months of service with Employer commencing on the date of employment or any anniversary thereof.

ARTICLE IV
TRUSTEE AND TRUST FUND

Contributions under the Plan and all other assets of the Plan shall be held in Trust under a Trust Agreement between the Employer and the Trustee. The Trustee shall hold, invest and distribute the trust fund and the income and gains therefrom in accordance with the provisions of such Trust Agreement. The Trust Agreement, contained in a separate document, is hereby incorporated by reference.

ARTICLE V
ADMINISTRATION

5.1 Administration of Plan. The Employer ~~shall~~ may appoint the Executive Director/APCO to be the Administrator of the Plan with authority to control and manage its operation and administration. The Administrator shall make such rules, regulations, interpretations and computations and shall take such other action to administer the Plan as it may deem appropriate. The Administrator shall have absolute discretion in carrying out its responsibilities and its decisions shall be conclusive and binding on all parties.

5.2 Administrator's Powers. The ~~Employer-Administrator~~ shall have all necessary and appropriate powers including, but not limited to, the following:

(a) to appoint a committee of one or more persons to discharge the Administrator's responsibilities under the plan. The Committee may be governed by policies or procedures established by the Administrator.

(b) to determine all questions relating to the interpretation, application and administration of the Plan, including questions as to eligibility to participate and claims submitted by a participant or individual;

(c) to maintain all necessary records for the administration of the Plan, other than those records maintained by the Investment Manager;

(d) to delegate to others any of its rights, powers, duties and responsibilities;

(e) to provide investment instructions to the Trustee and Investment Manager, as necessary, to retain, sell, exchange or invest Trust funds; and

(f) to establish a funding policy and method for the Plan.

5.3 Expenses and Compensation. The Employer shall not receive compensation for the administration of the Plan. Any expenses related to the administration and operation of the Plan shall be paid from Plan assets to the extent such expenses are not paid by the Employer. Expenses paid with Plan assets will generally be allocated among the Accounts of all Participants in the Plan during the Plan Year. These expenses will be allocated either

proportionally based on the value of the account balances or as an equal dollar amount based on the number of participants in the Plan. For expenses or costs which can be attributed to a Participant or specific group of Participants, such expense shall be charged directly to the account of the Participant incurring the expense. The Employer may establish a fee schedule for certain administrative transactions, including plan loans and lump sum distributions; however, any fee schedule adopted by the Employer shall be applied in a uniform and nondiscriminatory manner and will be disclosed to the Participants prior to any transaction subject to a fee.

5.4 Consultants. The Employer may employ such persons or organizations to render advice or to perform services with respect to the responsibilities of the Employer under the Plan which it, in its sole discretion, determines necessary and appropriate. Such persons or organizations shall have no discretionary authority or responsibility in the management, operation or administration of the Plan. Such persons or organizations may include, without limitation, actuaries, attorneys, accountants and benefit, financial and administrative consultants.

5.5 Fiduciary Duties. Any person to whom any fiduciary responsibilities with respect to the Plan may be allocated or delegated shall discharge his or her duties and responsibilities with respect to the Plan in accordance with the laws of the State of California.

5.6 Indemnification of Fiduciary. The Employer shall indemnify and hold harmless any persons to whom any of the Employer's fiduciary responsibilities under the Plan are allocated or delegated, from and against any and all liabilities, claims, demands, costs and expenses, including attorneys' fees, arising out of any alleged breach in the performance of their fiduciary duties under the Plan, other than such liabilities, claims, demands, costs and expenses as may result from the gross negligence or willful misconduct of such persons. The Employer, in its discretion, may conduct the defense of such person(s) in any proceeding to which this Section applies. In addition, the Employer may satisfy its obligations under this Section through the purchase of a policy or policies of insurance providing equivalent protection and coverage.

5.7 Use of Electronic Medium for Participant Notices and Elections.

(a) Definition of Electronic Medium. "Electronic medium" means an electronic method of communication system between the Plan Administrator, or its designated representative, and Recipient thereby allowing each party to send and receive notice and elections through the same medium. The only form of electronic communication permitted by the Plan shall be via electronic mail on the Employer's network or intranet, through an interactive website, or to a private e-mail address supplied by the Recipient for communication purposes. The electronic medium must be designed so that the information provided is no less understandable to the receiving party than a written paper document. The electronic medium shall be designed to alert the Recipient, at the time a notice is provided, to the significance of the information in the notice (including identification of the subject matter of the notice), and provide any instructions needed to access the notice, in a manner than is readily understandable. The electronic medium shall be designed to preclude any person, other than the appropriate individual, from making a participant election or accessing individual participant account information.

For purposes of this Section 5.7, “Recipient” shall mean an Employee, Participant, or other individual to the extent such individual has a vested interest in the Plan.

(b) Disclosure and Consent Requirements.

(1) Disclosure Statement. Prior to electronically transmitting any consent or notice to the Recipient, the Plan Administrator shall provide a statement which contains the following: (i) informs the Recipient of the right to receive a paper document of the notice or other Plan-related material either prior to or after giving consent to electronic transmission; (ii) informs the Recipient of the right to withdraw his or her consent at any time and the procedures for withdrawal, including any conditions, consequences, or fees arising from such withdrawal; (iii) describes the scope and duration of the consent as it related to various plan transactions; (iv) describes the procedures for updating Recipient contact information; and (v) describes the hardware or software requirements needed to access and retain the notice.

(2) Consent. The Plan Administrator shall be exempt from the consent requirements of Section 101(c) of the Electronic Signatures in Global and National Commerce Act (E-SIGN) provided the electronic medium used to provide notices and Plan-related material is a medium that the Recipient has the effective ability to access and the Recipient is advised, each time a notice is transmitted, that he or she can request to receive the notice in paper form at no charge. The form of electronic medium utilized by this Plan shall be through an interactive website requiring the Recipient to register an e-mail address for communication purposes.

(3) Changes in Hardware or Software Requirements. In the event of any changes in the hardware or software requirements needed to access the electronic medium, the Plan Administrator, or its designated representative, shall provide a statement to each Recipient of the revised requirements and the right to withdraw consent to receive electronic delivery of Plan-related materials without consequence.

(c) Participant Elections. The Plan Administrator, or its designated representative, shall be permitted to electronically distribute participant elections by electronic medium. Each Recipient who is provided with enrollment or election information via electronic medium will also be informed by the Plan Administrator that he or she may receive a paper copy of the relevant documents upon request. A participant election will not be treated as being made available to an individual if such individual cannot effectively access the electronic medium for purposes of making the election. An election completed by a Recipient via electronic medium shall be deemed as being provided in written form so long as the following requirements are satisfied:

(i) The Recipient has a reasonable opportunity review, confirm, modify or rescind the terms of the election before the election becomes effective

(ii) The Recipient receives, within a reasonable time, a confirmation of the election either through written paper form or by electronic mail (e-mail).

(d) Timing and Content of Elections and Notices. The provisions of this Section 5.7 shall in no way affect or alter the timing or content requirements applicable to each individual notice or document.

ARTICLE VI ELIGIBILITY AND PARTICIPATION

6.1 Commencement of Participation. An Employee who has become eligible to participate and has elected to contribute under the Employer's Deferred Compensation Plan shall become a Participant in this Plan concurrent with his or her commencement of participation in the Deferred Compensation Plan.

6.2 Accrual of Benefits. A Participant shall be entitled to his or her interest in the Employer contributions under Section 7.1 for each Plan Year of employment.

6.3 Duration of Participation. Participation continues until a Participant who has terminated employment incurs a Severance from Employment. In the event an Employee whose participation has terminated is re-employed, he or she shall resume Participation on the date of the commencement of re-employment.

6.4 Special Rule for Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. Effective for years beginning after December 31, 2008, an individual receiving from the Employer a differential wage payment, as defined in Code Section 3401(h)(2), shall be treated as an Employee of the Employer and the differential wage payments shall be treated as Compensation for purposes of determining vesting and benefit accrual. The Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

ARTICLE VII CONTRIBUTIONS

7.1 Employer Contributions. The Employer shall pay into the Trust those amounts specified under a memorandum of understanding between the Employer and a recognized bargaining unit and any employment agreement approved by the governing board of the Employer, including the following:

(a) Matching Contributions. The Employer shall annually pay into the Trust a matching contribution for each Participant. Such matching contribution shall be an amount equal to a specified percentage of his or her salary deferrals made during the Plan Year under the Employer's Deferred Compensation Plan. The matching contribution percentage for a Plan Year shall be based upon the percentage or formula specified in the memorandum of understanding or compensation plan then in effect for the Plan Year between the Employer and the Employee or the Employee and bargaining unit. For purposes of this Section 7.1(a), the amount of salary deferrals subject to match under this Plan shall not exceed the applicable annual dollar limit under Code Section 457(e)(15), and shall not include catch-up contributions under Code Section 457(b)(3) and additional elective deferrals for Participants who are age 50 or older.

(b) Employer Contribution. With respect to any Participant not included under paragraph (a) above, the Employer shall annually pay into the Trust the amount required to be contributed on behalf of such Participant pursuant to the terms of an employment agreement approved by the Employer or that amount determined by the Employer, if any, which it in its sole discretion determines to be a proper contribution.

7.2 Timing of Employer Contribution. Contributions made pursuant to Section 7.1 shall be made no later thirty (30) days following the close of the Plan Year.

7.3 Employee Contributions. Employee voluntary contributions are not permitted under the Plan.

ARTICLE VIII ALLOCATION TO PARTICIPANTS' ACCOUNTS

8.1 Allocation to Retirement Account. A separate Retirement Account shall be established for each Participant and shall be credited with Employer contributions under Section 7.1.

8.2 Annual Valuation and Change in Value. The Trustee shall determine, as of the last day of each Plan Year and on such other dates as the Administrator shall determine, the fair market value of the net Trust assets. The Administrator shall allocate the profits to, or charge the losses against, the respective Accounts of the Participants in proportion to the balances of the Account as of the most recent valuation date.

8.3 Interest in Trust Assets. Nothing contained herein shall be deemed to give any Participant any interest in any specific assets of the Trust and each Participant shall only have the right to receive payment at the time or times and upon the terms and conditions expressly set forth in the Plan.

8.4 Transfer From Other Qualified Plans. Incoming transfers of any rollover contributions from another Eligible Retirement Plan shall not be accepted.

ARTICLE IX
VESTING OF INTEREST

9.1 Vesting. The Retirement Account of each Participant shall be fully vested and nonforfeitable upon attainment of Normal Retirement Date or by reasons of death or Disability, but shall otherwise vest in accordance with Section 9.2.

9.2 Vesting Schedule. Each Participant shall have a nonforfeitable and vested right to his or her Retirement Account for each Year of Service completed while an Employee of the Employer, in accordance with the following schedule:

<u>Completed Years of Service</u>	<u>Nonforfeitable Percentage</u>
0-4	0
5 or more	100

9.3 Determination of Vested Interest. In computing the period of service for the purpose of determining the vested and nonforfeitable interest of a Participant, all of the Participant's Years of Service while an Employee of the Employer shall be ~~taken into account~~considered.

9.4 Forfeitures. Upon termination of participation, the unvested portion of a Participant's Retirement Account shall be forfeited pursuant to this Section 9.4. Forfeitures shall be used for defraying reasonable expenses of administering the Plan. Any remaining Forfeiture amounts not applied toward the payment of administrative expenses shall be applied toward the Employer contribution allocable under Section 8.1.

9.5 Lost Participants.

(a) Location of Lost Participant. The Employer shall take all necessary steps, upon the termination of participation, to ascertain the whereabouts of a lost Participant or Beneficiary whose benefit is payable.

(b) Mandatory Distribution. If the Account balance of a lost Participant or Beneficiary is \$1,000 or more, and the Employer has exhausted its efforts to locate the missing Participant or Beneficiary, then the Plan Administrator will distribute the entire Account via a direct rollover to an individual retirement plan designated by the Plan Administrator.

(c) Forfeiture. If the Account balance of a lost Participant or Beneficiary is less than \$1,000, and the Employer has exhausted its efforts to locate the missing Participant or Beneficiary and the Plan Administrator has concluded that a Participant or Beneficiary cannot be located, the Participant's entire Account(s) may be forfeited and allocated as provided in Section 9.4. In the event the lost Participant subsequently claims his or her vested benefit, the vested portion of the Account(s) shall be reinstated and distributed in accordance with Article XI.

ARTICLE X
LIMITATION ON BENEFITS

10.1 Annual Additions. “Annual Additions” shall mean the sum for any Limitation Year of the following amounts allocated to a Participant’s accounts in all defined contribution plans maintained by the Employer:

- (a) Employer contributions;
- (b) Forfeitures; and
- (c) Amounts allocated after March 31, 1984, to an individual medical account (as defined in Section 415(l)(2) of the Code) which is part of a pension or annuity plan maintained by the Employer. Also amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits, allocated to the separate account of a Key Employee (as defined in Section 419A(d)(3) of the Code) maintained by the Employer.

For the purposes of this paragraph, the term “Annual Additions” shall not include the following:

- (1) Rollover contributions (as defined in Sections 402(c), 403(a)(4), 403(b)(8) and 408(d)(3) of the Code);
- (2) Amounts derived from the repayment of cash outs or contributions under a governmental plan (as described in Code Section 414(d)) pursuant to Code Section 415(k)(3); and
- (3) Loan repayments on a participant loan.

10.2 Maximum Permissible Amount.

(a) Total Annual Additions. The amount of Annual Additions which may be contributed or allocated to a Participant’s Accounts for any Limitation Year shall not exceed the lesser of:

- (1) \$516,000 (the limit for 2013), ~~as and~~ adjusted for increases in the cost of living under Section 415(d) of the Code; or
- (2) one hundred percent (100%) of the Participant’s Compensation, as defined in Section 3.5(b), for the Limitation Year.

The Compensation limit referred to in paragraph (ii) above shall not apply to any contribution for medical benefits after Severance from Employment (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition. For purposes of determining the total Annual Additions allocated to a Participant’s Accounts during

the Limitation Year, amounts or benefits provided to an Alternate Payee (pursuant to Section 11.9) of the Participant shall be treated as if such allocations were allocated to the Participant's Account.

(b) Aggregation and Disaggregation of Other Defined Contribution Plans.

(1) Aggregating Plans. For purposes of applying the limitations of Section 10.2(a) for a Limitation Year, all qualified defined contribution plans (without regard to whether a plan has terminated) ever maintained by the Employer (or a "predecessor employer" as defined in subparagraph (i) below), including this Plan, shall be aggregated as one (1) defined contribution plan. An annuity contract under Code Section 403(b) and a simplified employee pension plan under Code Section 408 shall be treated as a defined contribution plan maintained by the Employer.

(i) Predecessor Employer. A former Employer is a "predecessor employer" with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit during the course of employment with the former Employer and that benefit is provided under the Plan currently maintained by the "successor employer." An Employer is a successor employer with respect to a Participant if, under the facts and circumstances, the Employer represents a continuation of all or a portion of the trade or business of the former entity.

(ii) Mid-year Aggregation. Two or more defined contribution plans that are not required to be aggregated pursuant to Code Section 415(f) as of the first day of a Limitation Year shall not cause a Participant to fail to satisfy the requirements of Code Section 415 for the Limitation Year merely because the plans are aggregated later in the Limitation Year, provided that no Annual Additions are credited to such Participant after the date on which the plans are first required to be aggregated.

(2) Nonduplication of Benefits. If the Plan is aggregated with another defined contribution plan pursuant to this Section 10.2(b), a Participant's benefits are not counted more than once in determining the Participant's aggregate Annual Additions under Article X.

10.3 Treatment of Excess Amounts. If the total Annual Additions that may be made with respect to any individual exceeds the limits of Section 415 of the Code, or under any other limited facts and circumstances that the Commissioner of Internal Revenue finds justify the application of this Section, the excess amount may be corrected in accordance with the Employee Plans Compliance Resolution System as set forth in Revenue Procedure 2013-12 or any superseding guidance, including, but not limited to the preamble of the regulations issued under Section 415 of the Code.

10.4 Special Rule for Short Limitation Year. In the event of a short Limitation Year because of an amendment changing the Limitation Year to a different 12 consecutive month period, the maximum permissible amount shall not exceed the total amount of Annual Additions (as defined in Section 10.2(a)) for the Plan Year multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

10.5 Special Rule for Make-Up Contributions Under USERRA. Any contributions allocated to the Accounts of a Participant who has served in qualified military service, as defined in the Uniformed Services Employment and Reemployment Rights Act (“USERRA”), which is made and allocated to a Limitation Year but which is attributable to a prior Limitation Year shall not be taken into account in applying the limitations for the Limitation Year for which the contribution is made, but rather, shall be counted and subject to the limitations, for purposes of Section 415 of the Code, for the Limitation Year to which the contributions relate.

ARTICLE XI DISTRIBUTION OF BENEFITS

11.1 Entitlement to Benefits. A Participant shall be entitled to a distribution of benefits under this Plan upon retirement or Severance from Employment. Benefits shall also be payable following the Participant’s death (in accordance with Section 11.5) or upon attainment of the Required Beginning Date (in accordance with Section 11.6).

A Participant who is still employed on his or her Normal Retirement Date shall not be entitled to benefits under this Plan until the Participant experiences a Severance of Employment. Such a Participant shall continue to participate in contributions under the Plan.

An Alternate Payee under a Qualified Domestic Relations Order shall be entitled to benefits under this Plan in accordance with Section 11.9.

11.2 Notification of Benefit Options. A Participant shall be furnished a notice not less than thirty (30) days, nor more than one hundred eighty (180) days (the “distribution election period”), prior to the first day of the first period for which an amount is paid. Such notice shall contain an explanation of the following:

(a) The right to defer the commencement of benefits until Normal Retirement Date, if applicable. The notice shall also describe the consequences of failing to defer receipt of the distribution and include a description indicating the investment options available under the Plan (including fees) that will be available if the Participant defers distribution.

(b) The form of benefits available under the Plan as provided under Section 11.3.

(c) The option to elect a direct rollover to an Eligible Retirement Plan in accordance with Section 11.7 and the involuntary distribution provisions of Section 11.4(b).

(d) The mandatory income tax withholding provisions applicable if the distribution is not transferred to an Eligible Retirement Plan, as defined in Section 11.7(b).

(e) The provisions under which the distribution will not be subject to tax if transferred to an Eligible Retirement Plan within sixty (60) days after the date on which the Participant received the distribution.

(f) The applicable rules on rollover and taxation of a lump sum distribution under Section 402(d) and (e) of the Code.

11.3 Form of Retirement Benefit. A Participant's Accounts shall be distributed in a single, lump sum distribution.

11.4 Timing and Consent to Distribution. Except as provided herein, the distribution of a Participant's Accounts shall begin as soon as administratively feasible following the Participant's Severance from Employment, but in no event, unless otherwise elected in writing by the Participant, no later than the sixtieth (60th) day after the latest of the close of the Plan Year in which the Participant: (1) attains the earlier of age 65 or the Normal Retirement Date; (2) completes his or her tenth (10th) year of participation in the Plan; or (3) terminates employment with the Employer.

(a) Consent to Distribution. Subject to the provisions of Section 11.4(b), distributions from the Plan shall only be made with the written consent of the Participant. Consent shall be given within the 180-days "distribution election period" and shall include an acknowledgment of the effect of such election. No consent under this Section 11.4 shall be valid unless the Participant has first received a notice which satisfies the requirements of Section 11.2.

(1) No Consent. The failure of a Participant to consent to a distribution while a benefit is immediately distributable shall be deemed an election to defer commencement of payment until the benefit is no longer immediately distributable.

(2) Waiver of 30-day period for distribution consent. The plan may distribute a benefit less than 30 days after providing the Participant notice of the distribution option, if the Participant affirmatively elects a distribution. The Participant must be notified that the Participant has the opportunity to elect a distribution for at least 30 days after receiving the notice.

(b) Involuntary Distributions. In the event that a Participant fails to submit an election within the "distribution election period" specified in Section 11.2 and the value of the Participant's vested Accounts does not exceed One Thousand Dollars (\$1,000) as of the date of distribution, no consent under this Section 11.4 will be required and the Participant shall receive a lump sum distribution of the entire vested portion of his or her Accounts.

(c) Forfeiture. If a Participant has no vested interest in his or her Account, he or she shall be deemed to have received a distribution for purposes of this Section 11.4 and the unvested balance shall be forfeited.

11.5 Death Benefit.

(a) Forms of Death Benefit. Subject to the rollover provisions of subsection (b) and (c) below, the entire balance of a deceased Participant's Account shall be distributed to the designated Beneficiary in a single lump sum payment as soon as administratively feasible following the death of the Participant.

(b) Direct Rollover by Surviving Spouse. If the designated Beneficiary is the surviving spouse of the Participant, the surviving spouse may also elect a direct rollover of the benefit to an Eligible Retirement Plan pursuant to Section 11.7. The Participant's Accounts shall be distributed, or begin to be distributed, to the surviving spouse on or before December 31 of the calendar year immediately following the calendar year in which the Participant died. However, if the surviving spouse is the sole designated Beneficiary of the Participant, distribution shall commence no later than December 31 of the calendar year immediately following the calendar year in which the Participant died or (ii) December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70½).

(c) Direct Rollovers by Non spouse Beneficiary. A designated Beneficiary who is not the surviving spouse (as defined under federal law) of the deceased Participant may elect a direct rollover of the benefits at the time and in the manner prescribed by the Plan Administrator. Any such distribution may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code established for the purpose of receiving the distribution on behalf of the designated Beneficiary and treated as an inherited IRA within the meaning of Section 408(d)(3)(C) of the Code. The Beneficiary must provide the Plan Administrator with sufficient information to identify the status of the inherited IRA as well as the custodian of the funds to whom the direct transfer is to be made. Any distribution made in accordance with this provision shall be considered an "eligible rollover distribution" (as defined in Section 11.7) excludable from gross income for the year in which payment is made under Code Section 402(c)(1). If a Participant's designated Beneficiary is a trust, the trustee of such trust shall be permitted to elect a direct rollover to an individual retirement account in accordance with this subsection provided the beneficiaries of the trust otherwise satisfy the requirements to be designated beneficiaries within the meaning of Code Section 401(a)(9)(E) and the regulations issued thereunder.

(d) Timing of Election. The Participant's designated Beneficiary shall elect the method of distribution no later than September 30 of the calendar year following the year of the Participant's death. If the designated Beneficiary does not elect a method of distribution, distribution of the Participant's

entire interest must be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.

11.6 Minimum Distributions. Notwithstanding any other provisions of this Article, with respect to distributions occurring on or after January 1, 2003, the distribution of a Participant's Accounts shall meet the requirements of this Section, Code Section 401(a)(9) and the Regulations thereunder, and in accordance with the minimum distribution incidental benefit requirements of Section 401(a)(9)(G) of the Code and the Regulations issued thereunder. These minimum distributions shall be calculated each year by the Plan Administrator and shall be distributed in accordance with this Section.

(a) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's Accounts will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's Accounts will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(ii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's Accounts will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 11.6(a)(2), other than Section 11.6(a)(2)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 11.6(a)(2) and 11.6(c), unless Section 11.6(a)(2)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 11.6(a)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 11.6(a)(2)(i). If distributions under an

annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 11.6(a)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) Forms of Distribution. Unless the Participant's Accounts are distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with paragraphs (b) and (c) of this Section 11.6. If the Participant's Accounts are distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the regulations issued thereunder.

(b) Required Minimum Distributions During Participant's Lifetime.

(1) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(ii) if the Participant's sole designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this paragraph (b) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

(c) Required Minimum Distributions After Participant's Death.

(1) Death on or After Date Distributions Begin. If the distribution of a Participant's interest has begun in accordance with Section 11.6(b)(1) and the Participant dies before the entire Account balance has been distributed, the remaining portion of the Account balance must be distributed at least

as rapidly as under the distribution method used as of the date of the Participant's death. Thereafter, the applicable distribution period for distribution years after the year of the Participant death shall be as provided under subparagraph (i) or (ii) below.

(i) Participant Survived By Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

1. the Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

2. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

3. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) Death Before Date Distributions Begin.

(i) Participant Survived By Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient

obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 11.6(c)(1).

(ii) No Designated Beneficiary. If the Participant dies before the date distribution begins and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's Accounts will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 11.6(a)(2)(i), this Section 11.6(c)(2) will apply as if the surviving spouse were the Participant.

(d) Application of 5-Year Rule.

(1) Election by Participant or Beneficiary. A Participant or Beneficiary may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections 11.6(a)(2) and 11.6(c)(2) applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 11.6(a)(2), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor the Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections 11.6(a)(2) and Section 11.6(c)(2).

(e) Definitions.

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 11.8 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury Regulations.

(2) Required Beginning Date. The "Required Beginning Date" of a Participant is April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 ½ or the calendar year in which the Participant retires.

(3) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first

Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 11.6(a)(2). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(4) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(5) Participant's Account Balance. The account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by the distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

(f) WRERA Elections for 2009 Calendar Year. Notwithstanding any other provisions of this Section 11.6, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) ("2009 RMDs") and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years, will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. In addition, notwithstanding Section 11.7 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, a direct rollover will include 2009 RMDs but only if paid with an additional amount that is an Eligible Rollover Distribution (as defined in Section 11.7(c)) without regard to Code Section 401(a)(9)(H).

11.7 Direct Rollovers. A Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution that is equal to at least \$200 paid directly to an Eligible Retirement Plan specified by the Distributee. If an Eligible Rollover Distribution is less than \$200, a Distributee may not make the election described herein to rollover a portion of the Eligible Rollover Distribution. The Distributee must provide the Plan Administrator with sufficient information to identify the Eligible Retirement Plan as well as the trustee or custodian of the funds to whom the transfer is to be made.

For purposes of this Section, the following definitions shall apply:

(a) Distributee. A “Distributee” shall mean an Employee, former Employee, or the surviving spouse of a deceased Employee or former Employee. In addition, the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, shall be Distributees with regard to the interest of the spouse or former spouse. For distributions after December 31, 2006, a Distributee shall also mean an Employee’s or former Employee’s nonspouse designated beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution in accordance with Section 11.5(c).

(b) Eligible Retirement Plan. “Eligible Retirement Plan” shall mean any of the following types of retirement plans which accepts the Distributee’s Eligible Rollover distribution: (i) an individual retirement account described in Code Section 408(a), (ii) an individual retirement annuity described in Code Section 408(b); (iii) an annuity plan described in Code Section 403(a); (iv) an annuity contract described in Code Section 403(b); (v) a qualified trust described in Code Section 401(a); or an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state of political subdivision of a state.

“Eligible Retirement Plan” shall also mean a Roth IRA described in Code Section 408A(b) provided such distribution is made by a direct trustee-to-trustee transfer and the receiving plan agrees to separately account for the amounts transferred.

(c) Eligible Rollover Distribution. An “Eligible Rollover Distribution” shall mean any distribution of all or any portion of the balance to the credit of the Distributee, except that it shall not include:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s designated Beneficiary, or for a specified period of ten (10) years or more; or

(2) any distribution required under Section 401(a)(9) of the Code; or

(3) any amount that is distributed on account of hardship; or

(4) the portion of any distribution that is not includable in gross income of the Distributee; or

(5) any other distribution that is reasonably expected to total less than \$200 during a year.

Notwithstanding the foregoing, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may only be transferred in a direct trustee-to-trustee transfer to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code, or to an annuity contract described in Section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(d) Rollovers to Roth IRA. Effective for distributions occurring after December 31, 2007, a Distributee may also elect to have any portion of an Eligible Rollover Distribution paid directly to a Roth IRA described in Code Section 408A provided the distribution requirements of Section 11.4 and this Section 11.7 have been satisfied. Any distribution made in accordance with this provision shall be considered a “qualified rollover contribution” and includable in the Distributee’s gross income for the year in which payment is made under Code Section 408A(c)(3)(A). A Distributee shall not be eligible to elect a qualified rollover contribution under this Section 11.7(d) if the Distributee’s adjusted gross income for the tax year exceeds the adjusted gross income limitation prescribed under Code Section 408(c)(3) (the limit for unmarried individuals is \$100,000 for tax years beginning before January 1, 2010) and, if married, is filing a separate individual tax return.

11.8 Designation of Beneficiary. Each Participant shall designate a primary Beneficiary and a contingent Beneficiary to receive any death benefit under this Plan in accordance with this Section. The designation of a primary Beneficiary and a contingent Beneficiary may be changed from time to time by filing a new designation in writing with the Employer. This designation shall be made at the time and in the manner established by the Employer in accordance with Section 401(a)(9) of the Code and the Regulations issued thereunder.

(a) Primary Beneficiary. A primary Beneficiary’s rights shall arise if the Participant dies before receiving all of his or her benefits.

(b) Contingent Beneficiary. The rights of a contingent Beneficiary shall arise if the primary Beneficiary predeceases the Participant, if the primary Beneficiary (who is not the Participant’s surviving spouse) has not survived to receive all of the Participant’s undistributed death benefits, or if the Participant’s surviving spouse (who is the primary Beneficiary) has not survived to receive all of the Participant’s undistributed death benefits and has not designated a contingent Beneficiary.

If the Participant's surviving spouse is the primary Beneficiary at the Participant's death, the Participant's surviving spouse may designate a contingent Beneficiary. Otherwise, if the primary Beneficiary is other than the Participant's surviving spouse and if the Participant specifically elects, the primary Beneficiary may designate a contingent Beneficiary. If the primary Beneficiary makes a designation of a contingent Beneficiary (as the surviving spouse of the Participant or pursuant to the election by the Participant permitting such a designation), the primary Beneficiary's designation of a contingent Beneficiary shall be controlling and shall supersede any designation of a contingent Beneficiary by the Participant. In the event that a contingent Beneficiary has not been designated, then the designation of a contingent Beneficiary shall be made by the Employer in accordance with subsection (d).

(c) Requirements of Spousal Consent. The written consent of the Participant's spouse shall be obtained in the event the Participant's spouse has a community property interest in the Participant's Account and the Participant designates another individual or entity (rather than the spouse) as the sole primary Beneficiary.

(d) Designation of Beneficiary by Employer. If, on the death of a Participant, former Participant, or the death of the current Beneficiary following the death of the Participant, the Administrator does not have a valid Beneficiary designation on file, the Employer shall designate a Beneficiary in the following order of priority:

- (1) surviving spouse or registered domestic partner under state law;
- (2) surviving children, including adopted children, in equal shares;
- (3) surviving parents, in equal shares;
- (4) Participant's estate; provided, however, that regardless of the order of priority, the Employer may designate the Participant's estate or the trustee(s) of the trust(s) named as the Beneficiary of the residue of the Participant's probate estate as Beneficiary. The Employer's determination of the individuals or entities as Beneficiary shall be final.

11.9 Distribution under Domestic Relations Order. An "alternate payee" under a "domestic relations order" ("DRO") shall be entitled to benefits in accordance with the requirements of this Article, except that a distribution pursuant to a DRO will be permitted whether or not the affected Participant has separated from service or attained the "earliest retirement age" under the Plan. For purposes of this Section, "domestic relations order," "alternate payee," and "earliest retirement age" shall have the meanings set forth in Code Section 414(p).

11.10 Distribution in Cash or Kind. Whenever a distribution is to be made from the Plan, the Plan Administrator may cause any distributions to be made in cash, in kind, or a combination thereof.

11.11 Rollovers Disregarded in Determining Value of Account Balance for Involuntary Distributions. For purposes of Section 11.4(b), the value of a Participant's nonforfeitable Account balance shall be determined without regard to that portion of the Account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) of the Code.

11.12 Special Rule for Deceased or Disabled Veterans. In the case of a Participant who becomes disabled or dies during qualified military service, as defined under USERRA, on or after January 1, 2007, the Participant or his or her designated Beneficiary shall be entitled to any additional benefits provided under the Plan as if the Participant had resumed employment with the Employer on the day preceding death or Disability and then terminated employment on the actual date of the death or Disability.

ARTICLE XII AMENDMENT AND TERMINATION

12.1 Employer Reserves Right to Amend. The Employer reserves the right to amend the Plan, including retroactive amendments, provided that no such amendment or modification shall revert any part of the principal or interest of the Trust to the Employer; or shall divert any part of the assets of the Trust for purposes other than the exclusive benefit of Participants or their Beneficiaries who have an interest in the Plan or for the purpose of defraying the reasonable expenses for administering the Plan.

12.2 Employer's Discretion. The Employer has established the Plan with the bona fide intention and expectation that it will be able to make its contributions indefinitely, but the continuance of the Plan is not assumed as a contractual obligation by the Employer and, excepting any funding obligations with respect to the Plan contained in a memorandum of understanding between the Employer and bargaining unit, the Employer is not under any obligation to continue its contributions or to maintain the Plan for any given length of time. The right is reserved by the Employer, in its sole and absolute discretion, to discontinue contributions or terminate the Plan, at any time, without any liability whatsoever for such discontinuance or termination.

12.3 Termination Events. The Plan and Trust shall terminate upon the delivery to the Trustee of a notice of termination executed by the Employer specifying the date as of which the Plan and Trust shall terminate. Termination of the Plan and Trust shall also occur upon the adjudication of the Employer as bankrupt or the Employer's general assignment for the benefit of creditors.

In the event of complete discontinuance of contributions or the termination in whole or in part of the Plan, the interest of each Participant in his or her Accounts at the date of such discontinuance or termination shall be vested in its entirety (i.e., nonforfeitable). In addition,

upon the partial termination of the Plan, the interest of each affected Participant shall be fully vested at the date of termination.

12.4 Termination Procedure.

(a) Revaluation of Assets and Allocation. Upon the whole or partial termination of the Plan, the Trustee shall revalue the Trust assets as of the date of termination and, after satisfying Trust obligations, shall adjust all Participants' Accounts for such obligations and Trust profits or losses (whether or not such profits or losses have been realized) to the date of termination. The allocation to each individual Participants' Accounts of expenses, profits, or losses shall be in the proportion that the Account values of each individual Participant bears to the total Account values of all Participants.

(b) Distribution of Assets. Upon termination of the Plan, the Employer shall direct the Trustee to distribute all of the remaining Participant Accounts. Distribution may be made in a single lump sum payment, in cash or assets of the Trust, without the Participant's consent.

ARTICLE XIII
GENERAL PROVISIONS

13.1 Non-Reversion. No portion of the principal or income of the Trust from the Employer contributions shall be paid to or revert to the Employer or be used for a purpose other than for the exclusive benefit of the Participants and their Beneficiaries, except to defray reasonable expenses of the administration of the Plan.

13.2 Type of Plan. The Plan is a governmental plan as defined in Code Section 414(d).

13.3 Nondiscrimination. Effective for the Plan Year beginning after August 17, 2006, governmental plans (within the meaning of Code Section 414(d)) maintained by a State or local government or political subdivisions thereof (or agency or instrumentality thereof) are exempt from the nondiscrimination and participation requirements of Sections 401(a)(3), 401(a)(4) and 401(a)(26).

13.4 Discharge of Employee. The adoption and maintenance of the Plan shall not be deemed to be a contract between the Employer and any Employee. Nothing herein contained shall be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the right of the Employer to discharge any Employee at any time.

13.5 Consolidation With Other Plan. In the event the Plan and the Trust merge or consolidate with, or transfer the assets and liabilities to, any other qualified plan of deferred compensation, no Participant herein shall, solely on account of such consolidation or transfer, be entitled to a benefit on the day following such event which is less than the benefit to which he or she was entitled on the day preceding such event. For the purpose of this Section, the benefit to which a Participant is entitled shall be calculated and based upon the assumption that a Plan

termination and distribution of assets occurred on the day as of which the amount of the Participant's entitlement is being determined.

13.6 The Plan. The Trust and the Plan are part of a single, integrated employee benefit system and shall be construed together. In the event of any conflict between the terms of these documents, such conflict shall be resolved first in favor of the Plan, and then the Trust.

13.7 Applicable Law. The Plan and Trust, including any administrative policies adopted by the Employer (collectively the "Plan Documents"), shall be construed, administered and governed under the Code; and to the extent any of the provisions of the Plan Documents are inconsistent with the Code, the provisions of the Code shall control. The Plan Documents shall also be construed, administered and governed by the laws of the State of California to the extent that the state law is not superseded or inconsistent with the Code. If, however, any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the Plan Document being a qualified plan and trust within the meaning of the Code.

13.8 Successors and Assigns. The Plan shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

13.9 Severability. If a court of competent jurisdiction shall find any provision of the Plan invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

13.10 Gender and Number. Words used in the masculine, feminine, or neuter gender shall each be deemed to refer to the other whenever the context so requires; and words used in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.

13.11 Headings. Headings used in the Plan are inserted for convenience of reference only and any conflict between such headings and the text shall be resolved in favor of the text.

13.12 Counterparts. The Plan may be executed in an original and any number of counterparts by the Employer, each of which shall be deemed to be an original of one and the same instrument.

EXECUTION

IN WITNESS WHEREOF, the Employer has caused this 401(a) Plan to be executed on _____.

EMPLOYER:

**MOJAVE DESERT AIR QUALITY
MANAGEMENT DISTRICT**

By: _____

~~Eldon Heaston~~Jeff Williams
~~Executive Director~~Governing Board Chair

APPROVED AS TO FORM AND CONTENT:

BEST BEST & KRIEGER LLP

By: _____
Attorneys for Employer

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Mojave Desert Air Quality Management District
Retirement Plan 401(a) Matching Contribution Plan

September 23, 2019

**Mojave Desert
Air Quality
Management District**

14306 Park Avenue
Victorville, CA 92392-2310
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Mojave Desert Air Quality Management District
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**TRUST AGREEMENT FOR THE
MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT
RETIREMENT PLAN**

THIS AGREEMENT is made and entered into by and between Mojave Desert Air Quality Management District (“Employer”) and Brad Poiriez (referred to as “Trustee”).

RECITALS

1. Employer has adopted the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT RETIREMENT PLAN (the “Plan”) for the exclusive benefit of the Employees of the Employer and their Beneficiaries.

2. Funds and other assets are from time to time contributed to the Trustee to be maintained in trust for the benefit of the Employees and their Beneficiaries under the terms of the Plan.

NOW, THEREFORE, it is agreed by and between Employer and Trustee, effective July 1, 2010, as follows:

ARTICLE I
DEFINITIONS

1.1 General Definitions. The words and phrases used in this Agreement shall have the same meanings as are defined in Article III of the Mojave Desert Air Quality Management District Deferred Compensation Plan (Internal Revenue Code Section 457(b) Plan, unless their context clearly indicates otherwise or as otherwise specifically provided.

1.2 Additional Definitions. In addition to the terms defined in the Plan, the following words and phrases, when used herein, shall have the following meanings:

(a) Fund or Trust Fund. “Fund” or “Trust Fund” shall mean all monies, securities and assets held by the Trustee for the benefit of Participants and Beneficiaries.

(b) Investment Manager. “Investment Manager” shall mean a person or organization acting as a fiduciary (other than a trustee with respect to investments of the Trust Fund.

(c) Trustee. “Trustee” shall be the individual appointed by the Employer empowered to execute the relevant duties as set forth in Article V herein.

ARTICLE II
ADMINISTRATION OF TRUST FUND

2.1 Establishment and Acceptance of Trust. The Employer hereby establishes with the Trustee, pursuant to the Plan, the MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT RETIREMENT PLAN/TRUST (the "Trust"). The Trust shall be administered as a Trust of such funds as shall from time to time be deposited with the Trustee, by or on behalf of the employees of the Employer, together with any income generated by the Trust Fund.

The Trustee hereby accepts the Trust created hereunder and agree to accept payments and contributions made to the Trust and to hold, manage, and administer the Trust pursuant to the terms of this Agreement. The Trustee shall be responsible for the investment and reinvestment of the Trust Fund and the Administrator hereby delegates to the Trustee, except as otherwise provided herein, the exclusive authority and discretion to manage and control the assets of the Trust.

2.2 Plan Administrator. The Employer shall be the Administrator with authority to control and manage the operation and administration of the Plan.

2.3 Allocation and Delegation of Fiduciary Duties. The Administrator may allocate its fiduciary duties among its members or may delegate its responsibilities to persons who are not named fiduciaries with respect to the specific responsibility delegated. Such allocation shall be reviewed periodically by the Administrator and shall be terminable upon such notice as the Administrator, in its sole discretion, deems reasonable and prudent under the circumstances.

2.4 Trustee. The Trustee shall have the authority to receive, hold, invest, administer and distribute the Trust Fund as provided in the Plan and as directed by the Administrator. The Administrator shall administer the Plan in accordance with Article V of the Plan and the Trustee shall not be responsible for administering the Plan but shall only be responsible for administering the Trust Fund as established in this Agreement and in Article IV of the Plan.

2.5 Pooling of Assets. The assets of the Trust Fund may be combined or pooled with the assets of other trusts maintained by Employer under the provisions of any qualified employee benefit plan and the Trustee may commingle investments and carry joint accounts on behalf of the funds; provided that undivided shares or interests in such investments or accounts or in any pooled assets shall be allocated to each trust in accordance with its respective interest. In addition, the Trustee shall keep separate accounting records for each fund.

ARTICLE III
INVESTMENT POWERS

3.1 Investment of Trust. The Trustee shall invest and reinvest the principal and income of the Trust Funds in such bonds, securities, real or personal property, or other forms of investment as the Trustee determines appropriate, except as limited as follows:

(a) The Trustee shall not engage in any transactions prohibited by Section 4975(c) of the Code, except as provided in Section 4975(d) of the Code.

(b) The Trustee shall not acquire any assets in which it would maintain the indicia of ownership outside the jurisdiction of the District Court of the United States, except as otherwise permitted by regulations of the Secretary of Labor of the United States.

ARTICLE IV
TRANSFER OF INVESTMENT AUTHORITY

4.1 Transfer to Employer or Investment Manager. The Employer may remove from the Trustee and transfer to the Employer or to an Investment Manager the authority and duty to manage, acquire or dispose of all or a portion of the Trust assets. In addition, if such authority has been transferred to the Employer, it may appoint an Investment Manager to manage, acquire or dispose of all or a portion of the Trust assets.

(a) Transfer to Employer. If the authority to manage, acquire or dispose of trust assets is transferred to the Employer, the Trustee shall follow the written directions of the Employer with respect to the management, acquisition or disposal of trust assets. The Employer may employ such persons or organizations to render advice or perform other services with respect to its responsibilities as it determines to be necessary or appropriate. Such persons or organizations shall not be authorized to direct the Trustee as to investments, and shall have no discretionary authority over the assets of the Trust unless appointed as an Investment Manager.

(b) Investment Manager. If an Investment Manager is appointed by the Governing Board ~~of Directors~~ of the Employer, the Trustee shall follow the written directions of the Investment Manager with respect to the management, acquisition or disposal of trust assets.

4.2 Compliance with Investment Instructions. The Trustee shall implement instructions under Section 4.1 as soon as administratively practical, provided it may decline to carry out any instructions which it deems inappropriate by virtue of applicable law. In addition, the Trustee may decline to carry out instructions which:

- (a) would result in a prohibited transaction, as defined in Code Section 4975;
- (b) would generate income that would be taxable to the Plan.

ARTICLE V
SPECIFIC POWERS OF TRUSTEE

The Trustee shall have the full power and authority with respect to any and all assets at any time received or held in Trust, to do all such acts, take all such proceedings, and exercise all such rights and privileges as could be done, taken, or exercised by the absolute owner thereof, necessary to hold and administer the Trust Funds, including, but without in any way limiting the generality of the foregoing, the following powers and authority:

(a) To sell and exchange with any person any and all assets which from time to time comprise the Trust, at either public or private sale, at such time or times and on such terms and conditions as to credit or otherwise, as the Trustee, in its discretion, may deem appropriate;

(b) To invest and reinvest all or any part of the Trust in such manner as it shall deem advisable, including stocks, bonds, notes, option contracts, listed or unlisted, covered or uncovered, puts and calls, securities, or obligations of any kind, real property wherever situated, annuities, and such other property and investments as the Trustee deems advisable with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) To vote by proxy or otherwise to represent securities and in that connection to delegate such of its discretionary powers as it deems appropriate; to consent as stockholder to any corporate acts it shall deem proper; to participate in any plans or arrangements for the protection or promotion of the interest of stockholders; to pay such sums of money as it deems expedient for the protection of its interests as stockholder; and to retain assets received in lieu of or because of any securities held;

(d) To extend the time for payment of or hold past due any obligations held or any installment thereof; to consent to the modification thereof or waive any defaults thereunder; to compromise, arbitrate, or otherwise adjust claims in favor of or against the Trust; to foreclose upon any security in such manner as it deems proper; to pay such sums of money as it deems expedient for the insurance, protection, maintenance, and repair of property or to redeem property for nonpayment of taxes or any liens; and to lease for such time as the Trustee deems proper, whether within or beyond the termination of the Trust;

(e) To cause investments to be registered in its name as Trustee or in that of its nominee, or to retain investments unregistered and in a form permitting transfer delivery;

(f) To consult with or employ legal counsel of its own selection (who may, but need not be, counsel to the Employer or the Trustee), agents, or independent contractors (to whom it may delegate such ministerial and limited discretionary duties as it deems fit). The reasonable compensation and fees of such persons shall be chargeable as an expense of the Trust.

The signature of any one (1) Trustee shall be required to carry out an act approved by the Trustees. One such signature shall be sufficient evidence that such act is made in accordance with the provisions of this Trust.

ARTICLE VI
FIDUCIARY STANDARDS AND INDEMNIFICATION

6.1 Fiduciary Standards. The Trustee and all other fiduciaries shall discharge their duties with respect to the Trust solely in the interest of the Participants of the Plan. These duties shall be discharged for the exclusive purpose of providing benefits to the Participants.

All fiduciaries shall discharge their duties in accordance with the documents and instruments governing the Plan and Trust to the extent the documents and instruments are consistent with the provisions of ERISA; provided, however, that the duties and responsibilities of the Trustee is limited to those expressly imposed upon the Trustee by this Trust Agreement.

6.2 Indemnification of Trustee. The Employer shall indemnify and hold harmless the Trustee from and against any and all liabilities, claims, demands, costs and expenses, including attorney's fees, arising out of an alleged breach in the performance of its fiduciary duties under this Agreement and under the laws of the state of California, other than such liabilities, claims, demands, costs and expenses as may result from gross negligence or willful misconduct. The Employer shall have the right, but not the obligation, to conduct the defense of such persons in any proceeding to which this Section applies. In lieu of the foregoing, the Employer may satisfy its obligations under this Section through the purchase of a policy or policies of insurance providing equivalent protection; however, no insurer shall have any rights against the Employer arising out of this Section.

ARTICLE VII
DISTRIBUTIONS

The Trustee shall from time to time make distributions from the Trust Fund in accordance with the written directions of the Administrator. These payments may be made either directly to the person designated by the Administrator or to the Administrator for transmittal to the Participant or Beneficiary.

The Trustee shall not be responsible in any way for the application of such payments, provided that the Trustee complies with the written instructions of the Administrator.

ARTICLE VIII
ACCOUNTING

8.1 Record-Keeping. The Trustee shall maintain accurate and detailed records and accounts of all investments, receipts, disbursements, and other transactions hereunder, and such records shall be available at all reasonable times to inspection by the Administrator or any other person designated by the Administrator.

The Trustee, at the direction of the Administrator, shall submit to the Administrator any valuations, reports, or other information as the Employer may reasonably require. In the absence of fraud or bad faith, the valuation of the Trust by the Trustee shall be conclusive.

8.2 Annual Account. Within a reasonable period following the close of each Plan Year (or following the close of such period as may be agreed upon by the Trustee and the Administrator),

the Trustee shall file with the Administrator a written account setting forth a description of all securities and other property purchased and sold, all receipts, disbursements, and other transactions effected by it during such period, and listing the securities and other property held by it at the end of such period.

The Administrator may approve such account by written notice of approval delivered to the Trustee. Upon receipt of a written approval of the account, such account shall be final and binding, and shall be a full discharge of the Trustee's liability and responsibility to the Employer with respect to the matters set forth in such account.

ARTICLE IX
CHANGE OR ADDITION OF TRUSTEE

9.1 Resignation or Removal. Any Trustee may resign or be removed by Employer at any time upon the giving of thirty (30) days' written notice. Upon such resignation or removal, the Employer, by written designation, shall, if the former Trustee was a sole Trustee, and may, if the former Trustee was one of two or more Trustees, appoint a successor Trustee who shall have the same powers and duties as those conferred upon the former Trustee. Upon acceptance of such appointment by the successor Trustee, the Trustee shall transfer all Trust Funds and property to such successor.

9.2 Accounting. Within sixty (60) days after such transfer, the resigning or removed sole Trustee shall render to the Administrator an account in the form and manner prescribed for the annual account. The Administrator may approve such account by written notice of approval delivered to the Trustee. Upon receipt of a written approval of the account, such account shall be final and binding, and shall be a full discharge of the Trustee's liability and responsibility to the Administrator with respect to the matters set forth in such account.

9.3 Co-Trustee. The Employer at any time may, by written designation, appoint one (1) or more additional Trustees who shall have the same powers and duties as those conferred upon the Trustee hereunder.

ARTICLE X
FEES AND EXPENSES

10.1 Compensation. The Employer shall pay to Trustee annually the expenses incurred in administering the Trust and such compensation for its services as Trustee as may be agreed upon from time to time. Such amounts shall be paid from the Trust Fund unless paid by the Employer.

10.2 Taxes. All taxes of any kind assessed upon, or in respect of, the Trust Fund shall be paid from the Trust Fund.

ARTICLE XI
AMENDMENT AND TERMINATION

11.1 Amendments. This Agreement, other than Section 11.2, may be amended at any time by written agreement of Employer and Trustee; provided, however, that such amendment shall not operate to:

- (a) Revest the Trust or any part thereof in Employer; or
- (b) Reduce the amount then held for the benefit of any Participant in the Plan.

11.2 Termination. Employer intends that this Trust be permanently administered for the benefit of the Participants and this Trust is accordingly irrevocable, but Employer reserves the right to terminate the Trust by giving written notice to Trustee, and, upon such termination, the Trust shall be distributed as provided by law by the Trustee when directed by the Employer.

ARTICLE XII GENERAL PROVISIONS

12.1 Governing Law. This Trust will be administered in the State of California, and its validity, construction, and all rights hereunder shall be governed the laws of the State of California. If any provisions of this Agreement shall be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

12.2 Diversion of Assets. No portion of the assets in the Trust shall revert to or become the property of the Employer or be diverted to purposes other than for the exclusive benefit of any Participant in the Plan or his beneficiaries, except as follows:

(a) In the event that this Trust fails initially to qualify as a tax exempt Trust under Section 501 of the Code, all contributions together with any income received or accrued thereon, less any benefits or expenses paid, may upon written direction of the Employer, be returned to Employer within one (1) year after the date of denial, notwithstanding the provisions of Article IX, and the Trust shall then terminate.

(b) In the event a contribution is made due to a mistake of fact, the contribution may upon written direction of the Employer be returned to Employer within one (1) year of the payment; provided, (1) the amount returned does not exceed the amount which would have not been contributed had there been no mistake of fact; (2) the amount returned does not include earnings attributable to it; (3) the amount returned is reduced by any losses attributable to it; and (4) the individual account of no Participant is reduced by the return of the contribution to less than the amount which would have been in the account had the returned contribution never been made.

(c) Any unallocated balance in a suspense account created under the Plan which cannot be allocated upon the termination of the Plan without exceeding the limitations of Section 415 of the Code shall be returned to the Employer.

12.3 Spendthrift. No Participant shall have any right to assign, transfer, hypothecate, encumber, commute, or anticipate his or her interest in any benefits under this Trust, and such benefits shall not in any way be subject to any legal process of levy or execution upon, or attachment or garnishment proceedings, against the same for the payment of any claim against any such person. This prohibition against assignment or alienation of benefits shall not apply to any loan made to a Participant under Section (g) of Article V of this Agreement, if such loan is exempt from the tax imposed by Internal Revenue Code Section 4975(d)(1), or to the creation, assignment, or recognition or a right to any benefit

pursuant to a qualified domestic relations order, as defined in Section 414(p) or the Code, as amended, or any domestic relations order entered into before January 1, 1985.

IN WITNESS WHEREOF, the parties have caused this Trust Agreement to be executed on _____.

EMPLOYER:

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

Jeff Williams, Board Chair

TRUSTEE:

Brad Poiriez, Executive Director/APCO

APPROVED AS TO FORM AND CONTENT:

BEST BEST & KRIEGER LLP

By: _____
Attorneys for Employer

The following page(s) contain the backup material for Agenda Item: 1) Award an amount not to exceed \$175,000.00 in Carl Moyer Program funds to CalPortland for the replacement of one 1999 TEREX Bore/Drill Rig with newer cleaner engine technology thus reducing emissions; (2) authorize the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3) authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel. Presenter: Jorge Camacho, Grants Specialist.

Please scroll down to view the backup material.

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

AGENDA ITEM #4

DATE: September 23, 2019

RECOMMENDATION: 1) Award an amount not to exceed \$175,000.00 in Carl Moyer Program funds to CalPortland for the replacement of one 1999 TEREX Bore/Drill Rig with newer cleaner engine technology thus reducing emissions; (2) authorize the Executive Director/APCO the option to change the funding source if other applicable sources become available; and, 3) authorize the Executive Director/APCO and staff to negotiate target time frames and technical project details and execute an agreement, approved as to legal form by the Office of District Counsel.

SUMMARY: This item awards grant in the amount not to exceed \$175,000.00 using Carl Moyer Program funds to CalPortland for drill replacement.

BACKGROUND: The purpose of the Carl Moyer Program provided by the California Air Resources Board (ARB) is to reduce emissions by providing financial incentives to both the public and private sectors to reduce emissions by retiring and replacing older off-road equipment. The removal and destruction of the older off-road equipment provides emission reductions that help reduce overall air pollutant emissions in the District.

MDAQMD received an application from CalPortland for a Drill replacement. In upgrading their equipment, the district expects to see a reduction in NOx, ROG and PM emissions. Staff recommends the Board approves the grant expenditure based on staff affirmation that the project is eligible in all aspects of the grant requirements as the emission reductions achieve will help improve the air quality in the district

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

AGENDA ITEM #4

PAGE 2

REASON FOR RECOMMENDATION: Governing Board approval is required to: (1) fund grant projects for the Carl Moyer Program (2) utilize available and alternative funding, (3) delegate to the Executive Director/APCO authority to negotiate and execute agreements with the grant recipient

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about August 26, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated and sufficient funds are available in Carl Moyer Grant Program.

PRESENTER: Jorge Camacho, Grants Specialist

The following page(s) contain the backup material for Agenda Item: [Receive and file the District Activity Report. Presenter: Brad Poiriez, Executive Director/APCO.](#)
Please scroll down to view the backup material.

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

AGENDA ITEM #5

DATE: September 23, 2019

RECOMMENDATION: Receive and file the District Activity Report.

SUMMARY: This item presents a report of District activities for the period referenced.

CONFLICT OF INTEREST: None.

BACKGROUND: The following reports reflect information regarding the District's activities in the following areas:

- Operations – including permitting and compliance
- Grants – including status of projects awarded
- Community Relations and Education – including events where the District participates and is represented, and upcoming events.

Staff is available to answer questions as needed.

REASON FOR RECOMMENDATION: These reports are for information only.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form and by Brad Poiriez, Executive Director on or about September 9, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Brad Poiriez, Executive Director/APCO.

From: Jorge Camacho
Grants Specialist
 760.245.1661, ext. 2020
 Fax 760.245.2699
 jcamacho@mdaqmd.ca.gov



To: Brad Poiriez
 bradp@mdaqmd.ca.gov

Date: 09/04/2019
Subject: September Grant Report

Interoffice Memo

Funding Source
Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program)

<u>Project Name</u>	<u>Grant Award</u>	<u>Status</u>
Searless Valley Minerals Crane #1	\$ 97,218.92	Pending
Searless Valley Minerals Crane #2	73,119.00	Pending
Nish Noroian Farms Tractor #3	76,974.00	Pending
Total Carl Moyer Grant Awards	\$ 170,337.92	

Funding Source
AB 134-Community Action Program

<u>Project Name</u>	<u>Grant Award</u>	<u>Status</u>
AVUSD Electric Bus Infrastructure	\$ 30,738.97	Pending
AVUSD Electric Bus Project	318,113.54	Pending
LVUSD Electric Bus Infrastructure*	9,085.11	Pending
LVUSD Electric Bus Project	297,024.91	Pending
Total AB 134 Grant Awards	\$ 654,962.53	

Funding Source
AB 2766

<u>Project Name</u>	<u>Grant Award</u>	<u>Status</u>
AVUSD Electric Bus Project	\$ 107,468.96	Pending
City of Hesperia Park and Ride	184,346.00	Pending
City of Hesperia (street light synchronization)	484,482.00	Pending
EV Charging	40,000.00	Ongoing/Yearly
Lawn and Garden Equipment	100,000.00	Ongoing/Yearly
Morongo Basin Transit	40,000.00	Ongoing/Yearly
Needles Area Transit	15,000.00	Ongoing/Yearly
Palo Verde Transit	20,000.00	Ongoing/Yearly
San Bernardino County	75,000.00	Ongoing/Yearly
Victor Valley Transit Authority	250,000.00	Ongoing/Yearly
Voluntary Accelerated Vehicle Retirement Program	100,000.00	Ongoing/Yearly

Total AB2766 Grant Awards

\$ 1,416,296.96

<u>Funding Source</u>		
<u>FARMER (Funding Agricultural Replacement Measures for Emission Reductions)</u>		
<u>Project Name</u>	<u>Grant Award</u>	<u>Status</u>
DeConinck Farms Project 2-Tractor	95,520.00	Pending
DeConinck Farms Project 3-Tractor	101,400.00	Pending
Total FARMER Grant Awards	\$ 196,920.00	

<u>Completed Project(s)</u>		
<u>All Funding Sources</u>		
<u>Project Name</u>	<u>Grant Award</u>	<u>Status</u>
City of Barstow-Skip Loader	\$ 20,832.00	Completed
DeConinck Farms-Windrower	121,205.00	Completed
Hinkley Dairy-Tractor	42,950.32	Completed
Mitsubishi Cement Corp.-Trackmobile	323,712.00	Completed
Nish Noroian Farms Tractor 1	131,114.00	Completed
Nish Noroian Farms Tractor 2	232,634.00	Completed
Seiler Equipment Project 1-Tractor	111,797.00	Completed
Valley Wide Construction-Crane	121,638.00	Completed
Shawn Barker Construction-Loader	219,630.00	Completed
Hinkley Dairy-Generator	55,792.00	Completed
Seiler Equipment Project 2-Tractor	49,736.00	Completed
Chairel Farms Project 8-Tractor	229,970.54	Completed
Barnes and Berger Project 13-Tractor	80,561.60	Completed
Barnes and Berger Project 14-Tractor	73,440.00	Completed
Chairel Farms Project 4-Tractor	37,817.00	Completed
Chairel Farms Project 5-Tractor	37,817.00	Completed
Chairel Farms Project 6-Tractor	37,817.00	Completed
Chairel Farms Project 12-Tractor	130,608.00	Completed
Chairel Farms Project 1-Tractor	37,817.00	Completed
Chairel Farms Project 2-Tractor	37,817.00	Completed
Chairel Farms Project 3 Tractor	24,902.72	Completed
CalPortland	339,948.80	Completed
Com AV-Tug	249,735.00	Completed
Com AV-Tug	249,735.00	Completed
Mojave Northern/CEMEX	1,000,000.00	Completed
Barnes and Berger Project 1-Tractor	63,283.65	Completed
Barnes and Berger Project 2-Tractor	63,319.07	Completed
Barnes and Berger Project 3-Tractor	63,319.07	Completed
Barnes and Berger Project 8-Tractor	63,283.65	Completed

Barnes and Berger Project 9-Tractor	63,283.65	Completed
Barnes and Berger Project 11-Tractor	63,319.07	Completed
Barnes and Berger Project 12-Tractor	63,319.07	Completed
Barnes and Berger Project 15-Tractor	63,319.07	Completed
Chairel Farms Project 7-Tractor	119,200.00	Completed
Chairel Farms Project 9-Tractor	134,000.00	Completed
Van Dyke Farms Tractor	300,019.20	Completed
Total Grant Awards	\$ 5,058,692.48	

Glossary of Terms and Definitions

AB 134

The AB 134 grant was developed by the California Air Resource Board (CARB) and CARB is providing Greenhouse Gas Reduction Funds through the Carl Moyer Program to support early actions that reduce emissions and improve public health in communities with high burdens of cumulative pollutant exposure, consistent with the goals of Assembly Bill 617 of July 26, 2017. This is a one-time grant in the amount of \$776,250.00 but additional funding may become available in the future

AB 2766

Authorized the Air District to impose a \$4 motor vehicle registration fee to provide funds to meet the new responsibilities mandated under the California Clean Air Act. The District approximately allocates \$600,000 for eligible projects on a yearly basis.

Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program)

The Carl Moyer Program was created by CARB and its goal is to reduce emissions by providing grants for the incremental cost of cleaner heavy-duty vehicles and equipment such as on-road, off-road, marine, locomotive stationary agricultural pump, forklift, and airport ground support engines. The District historically receives approximately \$600,000 for eligible projects on a yearly basis.

Completed

Projects that have been paid/reimbursed.

On-Going Yearly

Funds are encumbered on a yearly and ongoing basis.

Pending

Grantee is under a contractual agreement with the Air District.

Voluntary NOx Remediation Measure Funding (NRM)

The NRM program was developed by CARB to help mitigate historic NOx emissions caused by BioDiesel use in response to the Low Carbon Fuel Standard. This was a one-time grant in the amount of \$563,051.54

Work in Progress

Application is currently being reviewed by the Grants Division.

Interoffice Memo

From: Alan De Salvio 
Deputy Director - Operations
adesalvio@mdaqmd.ca.gov

To: Brad Poiriez
Executive Director
bradp@mdaqmd.ca.gov

Date: 9/5/2019

Subject: August 2019 Operations Activity Report



Permit Inspections Completed - 707 (89% in compliance)
Notices to Comply (NTCs) Issued - 12
Notices of Violation (NoVs) Issued - 5
Outstanding NoVs – 48 (13 open, 31 in settlement, 4 in legal)
Delinquent Permit Follow-Ups - 22
Breakdowns - 5
Vapor Recovery Tests Witnessed - 8
Complaints - 9
Complaint Investigations - 9
Asbestos Notifications - 25
Asbestos Project Inspections - 1

Permit Applications Received - 27
Permit Changes Processed - 63
Title V Permit Actions In Progress - 9
Permits Issued - 233
Active Companies - 643
Active Facilities - 1256 (41 Title V Facilities)
Active Permits - 4184
Certificate of Occupancy/Building Permit Reviews - 41

Project Comment Letters - 3

Full SLAMS Air Monitoring Sites:

Barstow (full met,¹ CO, NO_x, O₃, PM₁₀)
Hesperia (full met, O₃, PM₁₀)
Lucerne Valley (partial met,² PM₁₀)
Phelan (full met, O₃)
Trona (full met, H₂S, NO_x, O₃, SO₂, PM₁₀)
Victorville (full met, CO, NO_x, O₃, SO₂, PM₁₀, PM_{2.5})

Community Sensors:

One TAPI T640 PM_{2.5} and O₃ portable unit (a second unit in progress)
36 PurpleAir particulate public cloud sensors (Apple Valley (3), Baker (2), Barstow, Blythe (2), Earp, Fort Irwin, Helendale, Hesperia, Joshua Tree, Lucerne Valley (2), Morongo Valley (2), Needles (2), Newberry Springs (2), Nipton, Oak Hills/Hesperia (2), Parker Dam, Phelan (2), Pinon Hills, Trona, Twentynine Palms (2), Victorville (2), Wrightwood, Yermo, Yucca Valley)

¹ Full met is full meteorology (exterior temperature, wind speed, wind direction, exterior pressure and relative humidity)

² Partial met is full meteorology without relative humidity

Mojave Desert Air Quality Management District

Brad Poiriez, *Executive Director*

14306 Park Avenue, Victorville, CA 92392-2310

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September Activity Report Communications

Flag Program

The Academy for Academic Excellence in Apple Valley has agreed to initiate the air quality flag program as outreach continues on this valuable resource provided entirely free of cost by the MDAQMD with assistance from the EPA. The District's Communications Section staff is scheduled to present on the program at the MEEC teacher workshop on October 2nd to continue broadening its reach throughout the community.

Wildfire Smoke Outreach

The Executive Director and Communications Supervisor visited the Assistant Director of Public Health for San Bernardino County to discuss newly updated "wildfire smoke guidelines for public health officials," and to build a relationship in which the District and DPH can work together to provide the public with the most timely and important information regarding unhealthy air quality alerts and advisories.

POC Meeting

The Communications Supervisor and Specialist, serving as co-chairs of the CAPCOA Public Outreach Committee, held the last meeting of their co-chairmanship at the CAPCOA headquarters in Sacramento. The meeting included a tour of CARB's lab and boasted the highest attendance of the year for the POC.

Exemplar

2019 saw more nominations for the Exemplar Award than in recent history with Northwest Pipe Company ultimately being honored as this year's winner. Northwest Pipe Company was among six total nominees including companies such as CalPortland Cement, ComAv, CEMEX and the Victor Valley Transit Authority.

Stakeholder Interview

The Communications Supervisor participated in a stakeholder interview requested by CARB to provide input on their development of a mobile application that will integrate air quality data with prescribed fire and wildfire emissions in real time.

CDAWG

The 2019 CDAWG Conference will be held at the Renaissance Palm Springs on November 6-7. The agenda has now been finalized and published on www.mdaqmd.ca.gov, and registrations are already coming in. As board members, you are cordially invited to attend as a

representative of MDAQMD. Please contact Ryan or Martial in the Communications Section to secure your reservation.

California Clean Air Day

MDAQMD will be joining CAPCOA and air districts throughout the state to celebrate California Clean Air Day on October 2, 2019. This will be done through sharing a common message on social media and with local press regarding uniting to continue the fight against air pollution. California Clean Air Day is a project of the Coalition for Clean Air.

Interview Panel Participation

MDAQMD's Communications Supervisor participated in an all-day panel to assist in narrowing down candidates for the City of Hesperia to fill a position for Community Relations Specialist. Ten candidates were interviewed and the three-person panel narrowed the field to four. The Communications Supervisor also recently sat on a panel for the South Coast Air Quality Management District to assist in hiring a Senior Staff Specialist in its Public Affairs Department.

VMI Emcee

The District's Communication Specialist emceed the widely attended September Victor Valley Morning Insight meeting hosted by Victor Valley Chamber of Commerce and featuring the new VVC President Dr. Daniel Walden.

The following page(s) contain the backup material for Agenda Item: [Receive and file minutes of the Technical Advisory Committee \(TAC\) meeting August 22, 2019.](#)

[Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.](#)

Please scroll down to view the backup material.

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

AGENDA ITEM #6

DATE: September 23, 2019

RECOMMENDATION: Receive and file minutes of the Technical Advisory Committee (TAC) meeting August 22, 2019.

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

CONFLICT OF INTEREST: None

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

REASON FOR RECOMMENDATION: Governing Board request.

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel as to legal form, by Alan De Salvio, Deputy Director Mojave Desert Operations and by Brad Poiriez, Executive Director on or about September 5, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director Mojave Desert Operations.

Mojave Desert Air Quality Management District
Brad Poiriez, Executive Director
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • Fax 760.245.2699
www.MDAQMD.ca.gov • @MDAQMD



TECHNICAL ADVISORY COMMITTEE (TAC)
THURSDAY, AUGUST 22, 2019, 2:00 P.M.
MDAQMD OFFICES, BOARD CONFERENCE ROOM

MINUTES

TAC MEMBERS IN ATTENDANCE:

Dave Rib, Cement Industry Member
Jerry Kinkade, General Member
Jennifer Osorio, Environmental Health Member
Kristine Scott, Utility Member
Dale Tyson, Agricultural Member

DISTRICT STAFF PARTICIPATION:

Alan De Salvio, Deputy Director, MDAQMD Operations
Tracy Walters, Air Quality Planner II
Kevin Hendrawan, Air Quality Planner I
Deanna Hernandez, Senior Executive Analyst

1. Call to order – Alan De Salvio called the meeting to order at 2:05 p.m.
2. Introductions – Introductions were made at 2:06 p.m.
3. Rule 102 – Definition of Terms – Alan De Salvio provided background information on Rule 102 and answered questions from members. Following discussion, with no objections, TAC consensus recommends amendment of Rule 102 for adoption August 26, 2019.
4. Rule 401 – Visible Emissions – Alan De Salvio provided background information on Rule 401 and answered questions from members. Following discussion, with no objections, TAC consensus recommends amendment of Rule 401 for adoption August 26, 2019.

5. Rule 403 – Fugitive Dust – Kevin Hendrawan and Alan De Salvio provided background information on preliminary Rule 403 and answered questions from members. Discussion lead to the consensus that an industry task force be form in the near future for assistance with a draft rule. Adoption of Rule 403 being proposed for first quarter of 2020.
6. Rule 1157.1 – BARCT Requirements for Boilers and Process Heaters Outside the FONA – Kevin Hendrawan and Alan De Salvio provided background information on Rule 1157.1 and answered questions from members. Following discussion, with no objections, TAC consensus recommends Rule 1157.1 for adoption September 23, 2019.
7. 2019 RACT SIP Analysis for the 70 ppm Ozone Standard – Tracy Walters and Alan De Salvio provided background information and answered questions from members. Following discussion, TAC consensus agrees with the 2019 RACT SIP Analysis for the 70 ppm Ozone Standard for adoption October 28, 2019.
8. PUBLIC COMMENT
None.
9. Committee Members comments and suggestions for future agenda items –
 - TAC Member Dale Tyson requested that a future agenda item focus on CARB Healthy Soil program.
 - Staff Member Alan De Salvio commented that the next TAC meeting to be schedule first quarter 2020.
10. Adjourn – Being no further business, TAC adjourned at 3:04 p.m.

The following page(s) contain the backup material for Agenda Item: [Receive and file the Financial Report. Receive and file the preliminary Financial Report for FY20, through the month of July 2019, which provides financial information and budget performance concerning the fiscal status of the District. Presenter: Jean Bracy, Deputy Director – Administration and Laquita Cole, Finance Manager.](#)
Please scroll down to view the backup material.

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

AGENDA ITEM #7

DATE: September 23, 2019

RECOMMENDATION: Receive and file.

SUMMARY: Receive and file the Financial Report for **FY20**, through the month of **July 2019**, which provides financial information and budget performance concerning the fiscal status of the District.

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 *for all funds*. The target variance for July is 8% of Fiscal Year 2020.

The financial position for the District is sound and tracking well to the adopted budget. Several funding sources are received later in the fiscal year, including Program Revenue from AB2766 which will be received through June 2020.

Expenditures in the General Fund (not included in these reports) are under budget to date, and Personnel Expenses are slightly under budget. The 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 Brad Poiriez, Executive Director/APCO on or before September 9, 2019.

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

PRESENTERS: Jean Bracy, Deputy Director - Administration,
Laquita Cole, Finance Manager

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

AGENDA ITEM #7

PAGE 2

FINANCIAL REPORTS

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

STATEMENT OF ACTIVITY – This report reflects the revenues received and expenses made in all funds for the month(s) indicated and the year-to-date against the adopted budget for FY 20. The line items “Program” and “Program Costs” refer to the revenue and those payments made from the District’s grant funds (including AB 2766 and Carl Moyer Fund).

Y-T-D Actual Column – The revenue and expenditures to date reflect the activity year to date for the General Fund *together with* the District’s grant funds. When grant funds are expended they may be for amounts greater than what was received year to date because grants are often paid from the funds accumulated over a period of time. The Excess Revenue/Over Expenditures may reflect expenditures for the period exceeding the revenue for the period, creating a negative result that may imply expenses exceeding approved budget for the fiscal year.

CHECK REGISTERS – These reports list payments made for goods and services and fund transfers for District accounts.

BANK REGISTERS – DISTRICT CARDS – These reports show the purchases made using the District’s MasterCard’s. The items on these registers 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 July 31, 2019

Financial Report

	<u>General Fund</u>	<u>Mobile Emissions</u>	<u>Carl Moyer</u>	<u>Fiduciary Fund</u>	<u>Total</u>
Assets					
Current Assets					
Cash	4,447,228.80	2,519,387.17	254,025.16	1,719,310.67	8,939,951.80
Cash Held For Other Fund	38,959.03	(61,985.42)	32,619.86	(9,593.47)	0.00
Receivables	864,836.15	63,543.47	799,131.70	(23,203.00)	1,704,308.32
Pre-Paids	217,034.18	0.00	0.00	0.00	217,034.18
Total Current Assets	5,568,058.16	2,520,945.22	1,085,776.72	1,686,514.20	10,861,294.30
Non-Current Assets					
Deferred Outflows	5,039,754.00	0.00	0.00	0.00	5,039,754.00
Total Assets	10,607,812.16	2,520,945.22	1,085,776.72	1,686,514.20	15,901,048.30
Liabilities and Net Position					
Current Liabilities					
Payables	612,497.65	6,567.00	0.00	0.00	619,064.65
Accruals	644,592.77	0.00	0.00	0.00	644,592.77
Due to Others	(35.00)	0.00	0.00	0.00	(35.00)
Payroll Taxes Liability	48,901.11	0.00	0.00	0.00	48,901.11
Retirement	(6,667.50)	0.00	0.00	0.00	(6,667.50)
Health	(32,510.96)	0.00	0.00	0.00	(32,510.96)
Other Payroll Deductions	1,391.44	0.00	0.00	0.00	1,391.44
Unearned Revenue	(1,974.88)	0.00	1,074,354.97	0.00	1,072,380.09
Total Current Liabilities	1,266,194.63	6,567.00	1,074,354.97	0.00	2,347,116.60
Net Pension Liability	10,094,423.00	0.00	0.00	0.00	10,094,423.00
Net OPEB Liability	979,577.00	0.00	0.00	0.00	979,577.00
Deferred Pension Inflows	1,665,554.00	0.00	0.00	0.00	1,665,554.00
Deferred OPEB Inflows	18,639.00	0.00	0.00	0.00	18,639.00
Total Current Liabilities	12,758,193.00	0.00	0.00	0.00	12,758,193.00
Restricted Fund Balance	279,610.35	2,529,424.95	11,421.75	677,506.13	3,497,963.18
Committed Fund Balance	1,266,000.00	0.00	0.00	0.00	1,266,000.00
Assigned Fund Balance	250,000.00	0.00	0.00	1,000,000.00	1,250,000.00
Unassigned Fund Balance	3,184,430.48	0.00	0.00	0.00	3,184,430.48
Adjustments to Fund Balance - GASB 68	(6,466,848.00)	0.00	0.00	0.00	(6,466,848.00)
Adjustments to Fund Balance - GASB 75	(895,700.00)	0.00	0.00	0.00	(895,700.00)
Compensated Absences	(672,237.90)	0.00	0.00	0.00	(672,237.90)
Pre Paid	113,131.77	0.00	0.00	0.00	113,131.77
Change in Net Position	(474,962.17)	(15,046.73)	0.00	9,008.07	(481,000.83)
Total Liabilities & Net Position	10,607,812.16	2,520,945.22	1,085,776.72	1,686,514.20	15,901,048.30

Mojave Desert AQMD
Statement of Revenues & Expenditures
For the Period Ending July 31, 2019

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>
<u>Revenues</u>					
Antelope Valley Air Quality Mngmnt Contract	127,362.81	0.00	0.00	0.00	127,362.81
Other Contracts	0.00	0.00	0.00	0.00	0.00
Application and Permit Fees	374,387.97	0.00	0.00	0.00	374,387.97
AB 2766 and Other Program Revenues	105.00	0.00	1,000,000.00	0.00	1,000,105.00
Fines	4,511.17	0.00	0.00	0.00	4,511.17
Investment Earnings	23,748.75	4,772.89	0.00	9,364.38	37,886.02
Federal and State	0.00	0.00	0.00	0.00	0.00
Other Revenue	80.00	0.00	0.00	0.00	80.00
Total Revenues	530,195.70	4,772.89	1,000,000.00	9,364.38	1,544,332.97
<u>Expenditures</u>					
Salaries and Benefits	339,388.83	0.00	0.00	0.00	339,388.83
Services and Supplies	575,769.04	19,819.62	1,000,000.00	356.31	1,595,944.97
Contributions to Other Participants	90,000.00	0.00	0.00	0.00	90,000.00
Capital Outlay Improvements and Equipment	0.00	0.00	0.00	0.00	0.00
Total Expenditures	1,005,157.87	19,819.62	1,000,000.00	356.31	2,025,333.80
Excess Revenue Over (Under) Expenditures	(474,962.17)	(15,046.73)	0.00	9,008.07	(481,000.83)

Mojave Desert AQMD
Statement of Activity - All Funds
For the Period Ending July 31, 2019

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>
Revenues				
Revenue - Permitting	362,807.96	362,807.96	4,743,000.00	7.65
Revenue - Programs	1,000,105.00	1,000,105.00	3,038,492.00	32.91
Revenue - Application Fees	17,652.00	17,652.00	121,000.00	14.59
Revenue - State	0.00	0.00	417,427.00	0.00
Revenue - Federal	0.00	0.00	148,900.00	0.00
Fines & Penalties	4,511.17	4,511.17	188,500.00	2.39
Interest Earned	37,886.02	37,886.02	172,562.00	21.96
Revenue - Contracts & Unidentified	127,442.81	127,442.81	1,538,000.00	8.29
Permit Cancellations	(6,071.99)	(6,071.99)	0.00	0.00
Total Revenues	1,544,332.97	1,544,332.97	10,367,881.00	14.90
Expenditures				
Office Expenses	39,593.94	39,593.94	256,225.00	15.45
Communications	2,320.69	2,320.69	87,300.00	2.66
Vehicles	5,675.52	5,675.52	65,650.00	8.65
Program Costs	1,616,918.92	1,616,918.92	1,862,354.00	86.82
Travel	1,213.80	1,213.80	105,150.00	1.15
Professional Services	2,153.12	2,153.12	132,100.00	1.63
Depreciation	145.32	145.32	650.00	22.36
Maintenance & Repairs	5,609.23	5,609.23	79,100.00	7.09
Non-Depreciable Inventory	2,363.66	2,363.66	37,950.00	6.23
Dues & Subscriptions	6,227.58	6,227.58	50,550.00	12.32
Legal	4,124.63	4,124.63	46,500.00	8.87
Miscellaneous Expense	(529.00)	(529.00)	14,000.00	(3.78)
Suspense	127.56	127.56	0.00	0.00
Capital Expenditures	0.00	0.00	215,000.00	0.00
Total Expenditures	1,685,944.97	1,685,944.97	2,952,529.00	57.10
Salaries & Benefits				
Personnel Expenses	339,388.83	339,388.83	7,330,002.00	4.63
Total Salaries & Benefits	339,388.83	339,388.83	7,330,002.00	4.63
Excess Revenue Over (Under) Expenditures	(481,000.83)	(481,000.83)	85,350.00	(563.56)

Mojave Desert AQMD**Bank Register from 7/01/2019 to 7/31/2019****Wells Fargo Operating**

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000003	7/01/2019	Credit Card Transaction - Quality Resources	0.00	1,693.83	721,027.38
0000003	7/01/2019	Credit Card Transactions - Blythe Energy - Bartsow Truck Repair	0.00	2,713.49	723,740.87
0000003	7/01/2019	Credit Card Transaction - Victorville Collision	0.00	164.00	723,904.87
9244606	7/02/2019	401 (a) Contribution APCO	1,046.75	0.00	723,048.60
PP1419	7/02/2019	[14296] INTERNAL REVENUE SERVICE-PP14/19 FICA MED FITW	21,030.97	0.00	702,017.63
EFT	7/03/2019	Pay period ending 6/21/2019	113,174.24	0.00	588,843.39
0000003	7/03/2019	Credit Card Transaction - California Biotechnology Center	0.00	323.01	589,166.40
0008254	7/03/2019	[10007] AIR TECH SERVICES-Replace Compressor on Rooftop AC Unit	3,800.00	0.00	585,366.40
EFT	7/03/2019	[10017] BEST BEST & KRIEGER LLP-Legal Consel Services through May 31 2019	402.92	0.00	585,366.40
0008255	7/03/2019	[14346] CARPET CLUB INC-Furnish and install energy efficient pleated shades in 6 windows	4,000.00	0.00	581,366.40
0008256	7/03/2019	[10031] CDW - G-Fujitsu ScanSnap iX1500 30ppm Color Document Scanner	499.24	0.00	580,867.16
0008257	7/03/2019	[15040] CINTAS-AED Service	29.63	0.00	580,837.53
0008258	7/03/2019	[10045] CIVIC CENTER CAR WASH-Vehicle Washes March thru June 2019	287.84	0.00	580,549.69
0008259	7/03/2019	[10067] ENTERPRISE RENT A CAR-PQAO - UC DAVIS June 3 to 7, 2019	189.95	0.00	580,359.74
0008260	7/03/2019	[10073] GRAINGER-Flame Retardent Shirts for Compliance & Engineering	858.66	0.00	579,501.08
0008261	7/03/2019	[15055] MARTIAL HAPROV-06/2019 Santa Barbara CAPCOA POC	190.00	0.00	579,311.08
0008262	7/03/2019	[10088] HI DESERT GARDENS INC-Ladnscaping	280.00	0.00	579,031.08
0008263	7/03/2019	[10263] IN SHAPE HEALTH CLUBS INC-Invoices 2019-13, 2019-14	492.90	0.00	578,538.18
0008264	7/03/2019	[10086] KELLY PAPER COMPANY-Copy Paper	494.57	0.00	578,043.61
0008265	7/03/2019	[14247] BARBARA LODS-Tuition reimbursement for B. Lods - Academic and Career Success	1,462.50	0.00	576,581.11
0008266	7/03/2019	[10091] MASTER'S SERVICES-1st qtr FY20 brewer and water dipenser rental	235.81	0.00	576,345.30
EFT	7/03/2019	[10200] MOJAVE DESERT AQMD-Credit Card Transactions - May 2019	36,631.03	0.00	576,345.30
EFT	7/03/2019	[10200] MOJAVE DESERT AQMD-Pay Period 13/2019 - FSADed	638.71	0.00	576,345.30
EFT	7/03/2019	[10200] MOJAVE DESERT AQMD-Pay Period 14/2019 - FSADed	638.71	0.00	576,345.30
EFT	7/03/2019	[10117] RICOH AMERICAS CORP-Copier Lease	1,281.84	0.00	576,345.30
0008267	7/03/2019	[15050] RICOH USA INC-Copy charges	664.05	0.00	575,681.25
0008268	7/03/2019	[10126] SBCERA-Pay Period 14/2019 - SBCERADefer, SBCERAMatch, SBCERAPickUp, SurvivorInsBen, SurvivorInsDed, RetireCashBen	79,714.30	0.00	495,966.95
0008269	7/03/2019	[10213] SBPEA-Pay Period 14/2019 - GeneralUnitDues	623.73	0.00	495,343.22
0008270	7/03/2019	[15001] SBPIS-Pay Period 14/2019 - GeneralUnitMisc	5.00	0.00	495,338.22
0008271	7/03/2019	[10145] STAPLES INC-Office furniture ergonomic components	2,399.51	0.00	492,938.71
EFT	7/03/2019	[10149] TELEDYNE ADVANCED POLLUTION INSTRUMENTATION-Purchase Teledyne PM2.5/10 Mass Monitor T640	23,170.47	0.00	492,938.71
0008272	7/03/2019	[10150] THE COUNSELING TEAM-EAP Hours	240.00	0.00	492,698.71
0008273	7/03/2019	[10161] UNITED WAY DESERT COMMUNITIES-Pay Period 14/2019 - UnitedWay	38.00	0.00	492,660.71
EFT	7/03/2019	[10173] VOYAGER FLEET SERVICE-Fuel Card Charges June	1,937.10	0.00	492,660.71
0008274	7/03/2019	[10179] WOLTERS KLUWER LAW & BUSINESS-2019 Mandated Benefits Compliance Guide - Mid year updates	418.50	0.00	492,242.21
0202001	7/03/2019	Op Fund Rep #1	0.00	392,429.45	819,970.88
9267913	7/03/2019	Wager Works FSA Claim	28.10	0.00	819,942.78

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0000003	7/05/2019	Credit Card Transactions - Level 3 - High Desert Food Mart - American Integrated Services	0.00	1,227.00	821,169.78
0000003	7/05/2019	Credit Card Transactions - Owl Rock Products	0.00	576.00	821,745.78
PP1419	7/06/2019	[10064] EMPLOYMENT DEVELOPMENT DEPARTMENT-PP14/19 CA SWT	6,124.46	0.00	815,621.32
PP1419	7/06/2019	[10082] VOYA FINANCIAL (457)-PP14/19 457 red	10,193.63	0.00	805,427.69
0000003	7/08/2019	Credit Card Transactions - Mercury GSE	0.00	576.00	806,003.69
9288714	7/09/2019	Wager Works FSA Claim	154.00	0.00	805,849.69
EFT	7/11/2019	[10199] MERL R ABEL-Attendance Governing Board Meeting Monday, June 24, 2019.	190.48	0.00	805,849.69
0008275	7/11/2019	[15086] ADELANTO CHAMBER-Annual Renewal to Adelanto Chamber	150.00	0.00	805,699.69
0008276	7/11/2019	[10006] AIR & WASTE MANAGEMENT ASSOCIATION-Membership FY 20	98.00	0.00	805,601.69
0008277	7/11/2019	[10057] ALLIED ADMIN-Invoices 070119, 2019-13, 2019-14	2,662.65	0.00	802,939.04
0008278	7/11/2019	[10008] AMERICAN PHYSICAL SOCIETY-2019 APS dues for Alan De Salvio	164.00	0.00	802,775.04
0008279	7/11/2019	[15054] JORGE CAMACHO-Blythe, CA Trip: Pre/Post Inspection	99.00	0.00	802,676.04
0008280	7/11/2019	[14346] CARPET CLUB INC-Replace Carpet Wallboard in Conference Room	310.00	0.00	802,366.04
0008281	7/11/2019	[15040] CINTAS-AED Lease	106.67	0.00	802,259.37
0008282	7/11/2019	[15028] FEDAK & BROWN LLP-Invoices 063019, 063019	7,605.00	0.00	794,654.37
EFT	7/11/2019	[10100] NOVACOAST INC-Rule 300 and Payment Screen Updates	2,900.00	0.00	794,654.37
0008283	7/11/2019	[15046] RYAN ORR-06/2019 Santa Barbara CAPCOA POC	190.00	0.00	794,464.37
0008284	7/11/2019	[10129] PRAXAIR DISTRIBUTION INC-Cylinder rental	88.20	0.00	794,376.17
0008285	7/11/2019	[10114] RAINBOW BUILDING MAINTENANCE-Custodial Services June 2019	2,346.00	0.00	792,030.17
EFT	7/11/2019	[10134] SMART & FINAL IRIS COMPANY-Staff Meeting Supplies	251.18	0.00	792,030.17
0008286	7/11/2019	[10140] SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY-FY 20 Workers Comp	33,316.84	0.00	758,713.33
0008287	7/11/2019	[10140] SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY-FY Liability and Auto Premium	66,281.40	0.00	692,431.93
0008288	7/11/2019	[14215] MICHELLE ZUMWALT-Wellness Program Reimbursement	240.00	0.00	692,191.93
0202002	7/11/2019	Op Fund Rep #2	0.00	231,461.33	920,311.60
0202003	7/11/2019	Op fund Rep #3	0.00	43,097.54	963,409.14
0000003	7/12/2019	Credit Card Transaction - Performance Powder Coating	0.00	289.88	963,699.02
0000003	7/15/2019	Credit Card Transaction - EPOD Holdings	0.00	612.89	964,311.91
9324802	7/16/2019	Wager Works FSA Claim	10.00	0.00	964,301.91
PP1519	7/16/2019	[10082] VOYA FINANCIAL (457)-PP15/19 - 457 red	10,230.75	0.00	954,071.16
PP1519	7/16/2019	[10064] EMPLOYMENT DEVELOPMENT DEPARTMENT-PP15/19 CA SWT	6,282.42	0.00	947,788.74
PP1619	7/16/2019	[10064] EMPLOYMENT DEVELOPMENT DEPARTMENT-PP16/19 CA SWT	5,438.27	0.00	942,350.47
PP15119	7/16/2019	[14296] INTERNAL REVENUE SERVICE-PP15/19 FICA med FITW	21,226.74	0.00	921,123.73
EFT	7/17/2019	Pay period ending 7/05/2019	114,461.91	0.00	806,661.82
0000003	7/17/2019	Credit Card Transaction - Vulcan Materials	0.00	30,247.47	836,909.29
0008289	7/18/2019	[10013] AT & T-Complaint Line Charges	44.54	0.00	836,864.75
EFT	7/18/2019	[10017] BEST BEST & KRIEGER LLP-Gen Counsel Services	1,148.10	0.00	836,864.75
0008290	7/18/2019	[01302] BLYTHE ENERGY, INC-Refund: Duplicate Application Fee Payment	576.00	0.00	836,288.75
0008291	7/18/2019	[10019] BRADCO HIGH DESERT REPORT-Annual sponsorship of the Bradco Report	450.00	0.00	835,838.75

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
EFT	7/18/2019	[15195] CANTERRA GLOBAL LLC-Taleo performance system upgrades, 2nd Phase	3,090.00	0.00	835,838.75
0008292	7/18/2019	[00147] CIRCLE K STORES, INC - LICENSING-Refund: Duplicate Payment of Invoice MD 10550 - Overpayment of Invoice MD10354	3,190.60	0.00	832,648.15
EFT	7/18/2019	[10065] ENTERPRISE FLEET MANAGEMENT-Vehicle Leases	2,348.17	0.00	832,648.15
0008293	7/18/2019	[10079] HIGH DESERT LASER GRAPHICS-Invoices 46853, 46883	1,245.05	0.00	831,403.10
0008294	7/18/2019	[10263] IN SHAPE HEALTH CLUBS INC-Pay Period 15/2019 - GymDed	246.45	0.00	831,156.65
EFT	7/18/2019	[10200] MOJAVE DESERT AQMD-Pay Period 15/2019 - FSADed	638.71	0.00	831,156.65
EFT	7/18/2019	[14256] BRAD A POIRIEZ-CAPCOA Board Meeting.	148.50	0.00	831,156.65
0008295	7/18/2019	[10113] QUESTYS SOLUTIONS-Gold Level Questys Annual Product Maintenance & Upgrades for 7/1/2019 to 6/30/2020	22,247.67	0.00	808,908.98
0008296	7/18/2019	[10213] SBPEA-Pay Period 15/2019 - GeneralUnitDues	637.04	0.00	808,271.94
0008297	7/18/2019	[15001] SBPIS-Pay Period 15/2019 - GeneralUnitMisc	5.00	0.00	808,266.94
0008298	7/18/2019	[10136] SOUTHERN CALIF EDISON-Electric Service	3,162.38	0.00	805,104.56
0008299	7/18/2019	[10145] STAPLES INC-Office Supplies	205.08	0.00	804,899.48
0008300	7/18/2019	[10148] STRATEGIC PARTNERS GROUP-Legislative Services	1,700.00	0.00	803,199.48
0008301	7/18/2019	[10150] THE COUNSELING TEAM-EAP hours	300.00	0.00	802,899.48
0008302	7/18/2019	[10152] THE SUN - SAN BERNARDINO SUN-52 week subscription FY20	429.08	0.00	802,470.40
0008303	7/18/2019	[10161] UNITED WAY DESERT COMMUNITIES-Pay Period 15/2019 - UnitedWay	38.00	0.00	802,432.40
0008304	7/18/2019	[10166] VERIZON BUSINESS-VOIP and internet service	1,247.17	0.00	801,185.23
0000003	7/18/2019	Credit Card Transactions - Golden State Water - D2 Industrial Services	0.00	1,470.92	795,282.67
9338154	7/18/2019	Wager Works FSA Claim	126.60	0.00	795,156.07
0000003	7/22/2019	Credit Card Transactions - Fix Auto Barstow	0.00	328.00	795,484.07
0000003	7/22/2019	Credit Card Transactions - Lone Valley Solar	0.00	646.02	796,130.09
#4837	7/23/2019	[10071] BUSINESS CARD-#4837	781.86	0.00	795,348.23
#6210	7/23/2019	[10071] BUSINESS CARD-#6210	2,877.43	0.00	792,470.80
#4500	7/23/2019	[10071] BUSINESS CARD-#4500	3,524.98	0.00	788,945.82
0008305	7/25/2019	[10006] AIR & WASTE MANAGEMENT ASSOCIATION-2020 A&WMA dues for Alan De Salvio	98.00	0.00	788,847.82
0008306	7/25/2019	[10021] CAL PUBLIC EMP RETIREMENT SYSTEM-Invoices 100000015742350, 2019-13, 2019-14	38,715.86	0.00	750,131.96
0008307	7/25/2019	[10031] CDW - G-Replacement Flatscreen Monitors (for damaged and outdated monitors)	407.10	0.00	749,724.86
0008308	7/25/2019	[15233] D2 INDUSTRIAL SERVICES-Refund: Refund Demo/Reno Fee - SVM Trona - Earthquake Clean Up	1,157.64	0.00	748,567.22
EFT	7/25/2019	[10171] GRANICUS-Web Hosting 08/01/19 - 07/31/20	8,011.50	0.00	748,567.22
0008309	7/25/2019	[10076] HI DESERT WINDOW WASHING-Window Cleaning Service	200.00	0.00	748,367.22
0008310	7/25/2019	[15005] MAY MAMARI-Needles Sweep: Inspections	247.50	0.00	748,119.72
0008311	7/25/2019	[10096] MOJAVE ENVIRONMENTAL EDUCATION CONSORTIUM-FY 20 MEEC Contribution	90,000.00	0.00	658,119.72
0008312	7/25/2019	[15023] OLIVIA NESSIM-Needles, Parker Dam, Earp, Havasu Lake, Vidal inspections	247.50	0.00	657,872.22

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
Wells Fargo Operating

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
0008313	7/25/2019	[10103] ORACLE-TBE Site License	2,500.00	0.00	655,372.22
0008314	7/25/2019	[10126] SBCERA-Pay Period 15/2019 - SBCERADefer, SBCERAMatch, SBCERAPickUp, SurvivorInsBen, SurvivorInsDed, RetireCashBen	83,709.58	0.00	571,662.64
9373000	7/25/2019	Wager Works FSA Claim	124.33	0.00	563,526.81
0000003	7/26/2019	Credit Card Transaction - FAA	0.00	308.85	563,835.66
0000003	7/29/2019	Credit Card Transaction - Victor Valley Gas Mart	0.00	250.00	564,085.66
0000003	7/29/2019	Credit Card Transaction - Walmart	0.00	318.05	564,403.71
0000003	7/29/2019	Credit Card Transaction - Golden State Water	0.00	303.54	564,707.25
EFT	7/30/2019	Pay period ending 7/19/2019	105,553.62	0.00	459,153.63
0000003	7/31/2019	Credit Card Transaction - Danile Klutts dba RSM	0.00	288.00	459,441.63
9401382	7/31/2019	Wager Works FSA Claim	5.00	0.00	459,436.63
PP1619	7/31/2019	[10082] VOYA FINANCIAL (457)-PP16/19 - 457 Red	9,459.34	0.00	449,977.29
PP1619	7/31/2019	[14296] INTERNAL REVENUE SERVICE-PP16/19 - FITW, FICA, med	18,812.18	0.00	431,165.11
#1042	7/31/2019	[10071] BUSINESS CARD-#1042	19.35	0.00	431,145.76
#6251	7/31/2019	[10071] BUSINESS CARD-#6251	82.69	0.00	431,063.07
#0357	7/31/2019	[10071] BUSINESS CARD-#0357	370.00	0.00	430,693.07
#7885	7/31/2019	[10071] BUSINESS CARD-#7885	375.80	0.00	430,317.27
#3042	7/31/2019	[10071] BUSINESS CARD-#3042	1,189.13	0.00	429,128.14
#6685	7/31/2019	[10071] BUSINESS CARD-#6685	1,680.87	0.00	427,447.27
#7908	7/31/2019	[10071] BUSINESS CARD-#7908	84.64	0.00	427,362.63
#8110	7/31/2019	[10071] BUSINESS CARD-#8110	208.98	0.00	427,153.65
July	7/31/2019	[10047] COLONIAL INSURANCE-Supp Insurance Premiums	1,434.66	0.00	425,718.99
Total for Report:			1,003,130.31	709,325.27	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
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>
0000003	7/01/2019	Daily Deposit	0.00	15,436.43	3,426,772.06
20131023	7/02/2019	Daily Deposit	0.00	11,402.41	3,438,174.47
0202001	7/03/2019	Op Fund Rep #1	392,429.45	0.00	3,045,745.02
0000003	7/05/2019	SBCo ACH - City of VV - MDAQMD	0.00	44,026.18	3,089,771.20
20131024	7/08/2019	Daily Deposit	0.00	108,750.97	3,198,522.17
0000003	7/08/2019	SBCo ACH - NTC - Public Works	0.00	3,000.00	3,201,522.17
0000003	7/10/2019	SBCo ACH - Blythe Energy	0.00	576.00	3,202,098.17
20131025	7/11/2019	Daily Deposit	0.00	354,139.85	3,556,238.02
0202002	7/11/2019	Op Fund Rep #2	231,461.33	0.00	3,324,776.69
0202003	7/11/2019	Op fund Rep #3	43,097.54	0.00	3,281,679.15
20131026	7/15/2019	Daily Deposit	0.00	154,046.83	3,435,725.98
20131027	7/16/2019	Daily Deposit	0.00	36,956.50	3,472,682.48
0000003	7/17/2019	SBCo ACH - USMC	0.00	1,300.36	3,473,982.84
0000003	7/19/2019	Dilay Deposit	0.00	117,120.38	3,591,103.22
0000003	7/19/2019	SBCo ACH - MDAQMD	0.00	638.71	3,591,741.93
8877508	7/22/2019	Transfer AB2766 - May 2019	61,216.95	0.00	3,530,524.98
0000003	7/24/2019	Daily Deposit	0.00	6,610.68	3,537,135.66
	7/26/2019	Service Charge	11.00	0.00	3,537,124.66
0000003	7/29/2019	Daily Deposit	0.00	19,542.37	3,556,667.03
	7/29/2019	Interest Earned	0.00	23,691.18	3,580,358.21
20131028	7/30/2019	Daily Deposit	0.00	145,784.72	3,726,142.93
Total for Report:			728,216.27	1,043,023.57	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
WF AB2766

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	7/01/2019	Interest Earned	0.00	4,632.39	2,473,822.34
8877508	7/22/2019	Transfer AB2766 - May 2019	0.00	61,216.95	2,535,039.29
0003045	7/25/2019	[14357] EL DORADO BROADCASTERS-AB2766 Grant	2,000.00	0.00	2,533,039.29
0003046	7/25/2019	[10240] ENVIRONMENTAL ENGINEERING STUDIES-AB2766 Grant	9,372.62	0.00	2,523,666.67
0003047	7/25/2019	[10094] MOJAVE PRINTING SOLUTIONS-AB2766 Grant	4,420.00	0.00	2,519,246.67
Total for Report:			15,792.62	65,849.34	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
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>
	7/01/2019	Service Charge	0.00	540.00	
	7/01/2019	Interest Earned	0.00	140.50	140.50
Total for Report:			0.00	680.50	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
WF Carl Moyer

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	7/01/2019	Interest Earned	0.00	3,144.78	1,254,000.14
0001010	7/25/2019	[15236] CEMEX INC-Moyer Grant	1,000,000.00	0.00	254,000.14
Total for Report:			1,000,000.00	3,144.78	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
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>
	7/29/2019	Interest Earned	0.00	25.02	25.02
Total for Report:			0.00	25.02	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
Clean Air Fund

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	7/31/2019	Interest Earned	0.00	57.57	268,006.36
Total for Report:			0.00	57.57	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
PARS TRUST - OPEB

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	7/01/2019	Service Charge	134.66	0.00	646,244.84
	7/01/2019	Interest Earned	0.00	3,919.66	650,164.50
Total for Report:			134.66	3,919.66	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
PARS TRUST - PENSION

<u>Check/Ref</u>	<u>Date</u>	<u>Name/Description</u>	<u>Check Amount</u>	<u>Deposit Amount</u>	<u>Account Balance</u>
	7/01/2019	Service Charge	221.65	0.00	1,063,701.45
	7/01/2019	Interest Earned	0.00	5,444.72	1,069,146.17
Total for Report:			221.65	5,444.72	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
District Card- 6210

Check/Ref	Date	Name/Description	Check Amount	Deposit Amount	Account Balance
0000470	7/11/2019	[10070] FEDERAL EXPRESS CORPORATION-Invoices 657649981, 658297233, 659019016, 659722435	636.81	0.00	-19,697.45
0000471	7/11/2019	[00638] FRONTIER COMMUNICATIONS-Invoices 050519 HAM, 063119	90.66	0.00	-19,788.11
0000472	7/11/2019	[15223] GUITAR CENTER-PA sound system powered speaker, stands and microphone for use at CDAWG, and other meetings/events	834.23	0.00	-20,622.34
0000473	7/11/2019	[15090] HAMPTON INN & SUITES-Blythe Inspections & TESTG Witnessing	393.80	0.00	-21,016.14
0000474	7/11/2019	[10116] IRON MOUNTAIN-Doc Destruction service	73.29	0.00	-21,089.43
0000475	7/11/2019	[14275] IRON MOUNTAIN INC (DR SERV)-Doc Retention Service	371.10	0.00	-21,460.53
0000476	7/11/2019	[10066] PRESS ENTERPRISE-Invoices 2951, 2953, 2985, 2994	1,512.00	0.00	-22,972.53
0000477	7/11/2019	[10138] SPARKLETTS-Water Delivery Service	55.56	0.00	-23,028.09
0000478	7/11/2019	[10169] VERIZON WIRELESS SERVICES, LLC-Cell phone service	157.34	0.00	-23,185.43
0000479	7/11/2019	[10174] WEST GROUP-Invoices 0840029202, 0840193057, 0840358347	2,320.62	0.00	-25,506.05
Total for Report:			6,445.41	0.00	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
District Card - Assigned

Check/Ref	Date	Name/Description	Check Amount	Deposit Amount	Account Balance
0000886	7/19/2019	[15259] 99 CENTS ONLY-District Staff Meeting Supplies	11.91	0.00	-19,270.33
0000887	7/19/2019	[15086] ADELANTO CHAMBER-Meeting Attendance	18.00	0.00	-19,288.33
0000888	7/19/2019	[15073] APPLE VALLEY CHAMBER-Admittance for one to the June Apple Valley	21.00	0.00	-19,309.33
0000889	7/19/2019	[15070] BARSTOW CHAMBER OF COMMERCE-Admittance for one to Barstow Chamber monthly membership meeting	15.00	0.00	-19,324.33
0000890	7/19/2019	[10026] CALPELRA-Invoices 3038, 816	1,435.00	0.00	-20,759.33
0000891	7/19/2019	[15229] CANVA.COM-Software Subscription	12.95	0.00	-20,772.28
0000892	7/19/2019	[15218] CHATEAU CHANG-Planning Dept Lunch Meeting	82.69	0.00	-20,854.97
0000893	7/19/2019	[15260] CROWNE PLAZA-Ventura County Air Pollution Control Office for APCO Interviews.	183.60	0.00	-21,038.57
0000894	7/19/2019	[15094] FOOD 4 LESS-Bottled water for monitoring stations (for cleaning instruments)	8.72	0.00	-21,047.29
0000895	7/19/2019	[15066] HARBOR FREIGHT-Invoices 3123, 3124	60.32	0.00	-21,107.61
0000896	7/19/2019	[15053] HESPERIA CHAMBER OF COMMERCE-Hesperia Chamber Luncheon Admittance for two	40.00	0.00	-21,147.61
0000897	7/19/2019	[15064] HOME DEPOT-Invoices 3069, 3125, 3126, 3127	149.52	0.00	-21,297.13
0000898	7/19/2019	[15261] LURE FISH HOUSE-Ventura County Air Pollution Control Office for APCO Interviews.	35.85	0.00	-21,332.98
0000899	7/19/2019	[10591] KAREN NOWAK-Parking V. Ramirez Mediation	19.35	0.00	-21,352.33
0000900	7/19/2019	[15046] RYAN ORR-06/2019 Santa Barbara CAPCOA POC Ramada Inn	382.48	0.00	-21,734.81
0000901	7/19/2019	[15164] OVERLAND MEAT-AWMA Tour Luncheon Reimbursed by AWMA	154.73	0.00	-21,889.54
0000902	7/19/2019	[14256] BRAD A POIRIEZ-Travel expense V. Ramirez mediation meeting June 4, 2019.	19.35	0.00	-21,908.89
0000903	7/19/2019	[15258] RAMADA-06/2019 Santa Barbara CAPCOA POC	382.48	0.00	-22,291.37
0000904	7/19/2019	[10120] ROTARY CLUB OF VICTORVILLE-Monthly Dues - Rotary Club Of Victorville.	137.00	0.00	-22,428.37
0000905	7/19/2019	[15225] SAFETYGLASSES.COM-Invoices 062719, 812	63.15	0.00	-22,491.52
0000906	7/19/2019	[15057] SOUTHWEST AIRLINES-Invoices 816, 817	602.92	0.00	-23,094.44
0000907	7/19/2019	[15165] SURVEYMONKEY.COM-Marketing service Subscription	37.00	0.00	-23,131.44
0000908	7/19/2019	[15056] VICTOR VALLEY CHAMBER OF COMMERCE-Meeting Attendance	25.00	0.00	-23,156.44
0000909	7/19/2019	[15235] WALGREENS-Invoices 3096, 3096 (1)	113.44	0.00	-23,269.88
Total for Report:			4,011.46	0.00	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
District Card - 4837

Check/Ref	Date	Name/Description	Check Amount	Deposit Amount	Account Balance
0000701	7/19/2019	[14324] AMAZON.COM-Invoices 3035, 3035 (1), 807	310.29	0.00	-9,301.81
0000702	7/19/2019	[10026] CALPELRA-TRAVEL MASTER - Registration CalPELRA Meeting	1,065.00	0.00	-10,366.81
0000703	7/19/2019	[10046] CLARK PEST CONTROL-Pest Control Service	50.00	0.00	-10,416.81
0000704	7/19/2019	[00638] FRONTIER COMMUNICATIONS-Invoices 062219, 070119	1,352.24	0.00	-11,769.05
0000705	7/19/2019	[10055] HIGH DESERT MEDIA GROUP-Invoices 3037, 3057	1,173.46	0.00	-12,942.51
0000706	7/19/2019	[15057] SOUTHWEST AIRLINES-TRAVEL MASTER - Registration CalPELRA Meeting	290.96	0.00	-13,233.47
Total for Report:			4,241.95	0.00	

Mojave Desert AQMD
Bank Register from 7/01/2019 to 7/31/2019
District Card - 6232

Check/Ref	Date	Name/Description	Check Amount	Deposit Amount	Account Balance
0000270	7/19/2019	[15257] AGGIE INN DAVIS-Invoices 739, 750	1,206.12	0.00	3,378.91
0000271	7/19/2019	[10033] CHARTER BUSINESS-Internet Service	1,735.05	0.00	1,643.86
0000272	7/19/2019	[10044] CITY OF VICTORVILLE-Fire Sprinkler Service	73.44	0.00	1,570.42
0000273	7/19/2019	[15090] HAMPTON INN & SUITES-Blythe inspections in June	367.48	0.00	1,202.94
0000274	7/19/2019	[14231] BARBARA HAYES-meeting expense	35.47	0.00	1,167.47
0000275	7/19/2019	[15110] ONTARIO AIRPORT PARKING-PQAO - UC DAVIS June 3 to 7, 2019 Parking/ Fuel	107.42	0.00	1,060.05
0000069	7/23/2019	July 2019 Payment	0.00	3,524.98	4,585.03
Total for Report:			3,524.98	3,524.98	

The following page(s) contain the backup material for Agenda Item: [Receive and file the Legislative Report for September 2019. Presenter: Brad Poiriez, Executive Director/APCO.](#)

Please scroll down to view the backup material.

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

AGENDA ITEM #8

DATE: September 23, 2019

RECOMMENDATION: Receive and file.

SUMMARY: The Legislative Report for September 2019.

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

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

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

REVIEW BY OTHERS: This item was reviewed by Karen Nowak, District Counsel, as to legal form and by Brad Poiriez, Executive Director, on or about September 9, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Brad Poiriez, Executive Director/APCO.



Government Affairs and Communication Consulting

FRANK T. SHEETS, III
LAURIE HANSEN SHEETS

MEMORANDUM

DATE: August 5, 2019

TO: Brad Poiriez

FROM: Frank Sheets
Laurie Hansen

RE: September 2019 Legislative Report

Following please find our latest Legislative report and the final one before the Legislature adjourns.

We are now entering the last phase of the 2019 legislative session and therefore we feel it appropriate to mention the deadlines the legislature has to meet to amend and/or otherwise act on bills prior to the end of the legislative session. August 30th represented the last day for Fiscal Committees to act on bills and pass or not pass on to their respective floors. During September 3 thru September 13th, no bills are allowed to be considered in committee, and any further action on bills will take place on the relative Floors of the Houses. The Legislature will adjourn for the 2019 session on September 13.

The Governor will have until October 13 to sign, veto, or let bills become law without his signature.

Our next report will focus on bills that passed the Legislature and being considered by the Governor, and any district bills that have been signed or vetoed.

As the session comes to a close, we are seeing what we believe to be some protocols we find of interest – many more bills getting gutted and amended and the subject matter never getting heard in a policy committee. This has happened many times in the past, but the practice appears to be on the increase this year.

For example, we have been following Assemblymember Garcia's AB 753 throughout the session. The bill had proposed the formation of a renewable fuel and vehicle program to encourage grant programs to promote renewable fuels and fuel infrastructure. The bill became a two-year bill as reported in our last report and we were of the opinion no additional action would take place on the bill until the second session of a two-year legislature. We were definitely wrong with that assumption. AB 753 was gutted and amended on August 28, not heard in any policy committee, and immediately sent to third reading on the Senate floor. Actually, this amended version of the bill had never been read before, and adopted under an "urgency clause". The bill waived certain CEQA requirements for the Cabazon Band of Mission Indians.

Another example of a significant gut and amend is another Garcia bill, AB 352. The bill dealt with grant programs for climate change. This also became a two-year bill and again we felt there would be no action until next year. And, again, we were mistaken. AB 352 was gutted and amended on August 14th. The bill

now is a bond proposal to be considered next year assuming of course it is not significantly amended again.

We would also like to bring to your attention Cooley's AB 296. Assemblymember Cooley is advocating for a voluntary tax contribution protocol to fund grants addressing climate change issues. Upon the receipt of at least \$2M, a grant process can commence. If the contributions for any calendar year do not meet a \$250,000 minimum, the bill has provisions to self-terminate. Apparently, there are provisions in the bill to allow for tax deductions for the contributors from State income tax obligations. It will be interesting to see the public's interest in voluntary contributions to help fund new projects addressing causes of climate change. and we find no provisions in the bill that should the program be fail to meet is contribution levels how accumulated funds will be managed after the program ceases.

We should also note that Assemblymember Obernolte's AB 394 is the only Republican sponsored bill on the District's list that has made it through the process and is being considered on the Senate Floor.

And we are relatively certain AB 1080 and SB 54, the two bills dealing with single use packaging, although raising significant concerns among stakeholders, will likely pass and we understand will be signed by the governor. If the bill becomes law, there will be significant regulatory development by Cal Recycle which when implemented most likely will have Californians seeing dramatic changes in the packaging of products they use daily. CalRecycle is also required to consult with CARB on GHG emissions for recycling and composting during the regulatory development process.

MDAQMD 2019 bills

Wednesday, September 04, 2019

[AB 35](#)

([Kalra](#) D) Worker safety: blood lead levels: reporting.

Current Analysis: 09/01/2019 [Senate Floor Analyses \(text 3/21/2019\)](#)

Introduced: 12/3/2018

Last Amend: 9/3/2019

Status: 9/4/2019-Action From SECOND READING: Read second time.To THIRD READING.

Location: 9/4/2019-S. THIRD READING

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 consider a report from a laboratory of an employee's blood lead level at or above 20 micrograms per deciliter to be injurious to the health of the employee and to report that case within 5 business days of receiving the report to the Division of Occupational Safety and Health. The bill would further provide that the above-described report would constitute a serious violation and subject the employer or place of employment to an investigation, as provided, by the division, and would require the division to make any citations or fines imposed as a result of the investigation publicly available on an annual basis.

Vote Events:

08/30/2019 SEN. APPR. (Y:5 N:2 A:0) (P)

08/12/2019 SEN. APPR. (Y:7 N:0 A:0) (P)

07/10/2019 SEN. P.E. & R. (Y:4 N:1 A:0) (P)

06/26/2019 SEN. HEALTH (Y:7 N:2 A:0) (P)

05/28/2019 ASM. THIRD READING (Y:49 N:22 A:9) (P)

05/16/2019 ASM. APPR. (Y:12 N:5 A:1) (P)

03/20/2019 ASM. L. & E. (Y:5 N:2 A:0) (P)

Notes 1: Assuming it might be possible that high lead levels in blood might be caused by an air source, this bill might be of interest to the District.

[AB 56](#)

([Garcia, Eduardo](#) D) Electricity: procurement by the California Alternative Energy and Advanced Transportation Financing Authority.

Current Analysis: 07/09/2019 [Senate Energy, Utilities And Communications \(text 7/3/2019\)](#)

Introduced: 12/3/2018

Last Amend: 7/3/2019

Status: 8/28/2019-Action From E. U., & C.: Reconsideration granted.

Location: 8/28/2019-S. E. U., & C.

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 empower the California Alternative Energy and Advanced Transportation Financing Authority to undertake backstop procurement of electricity that would otherwise be performed by an electrical corporation to meet the state resource adequacy, integrated resource planning, and renewable portfolio standard goals not satisfied by retail sellers or load-serving entities. The bill would authorize the authority to undertake backstop procurement consistent with specified objectives and to manage the resale of electricity for its contracted resources. The bill would require the commission to periodically review the need for, and the benefits of, continuing to empower the authority to undertake backstop procurement responsibilities.

Vote Events:

08/28/2019 SEN. E. U., & C. (Y:11 N:0 A:2) (P)

07/10/2019 SEN. E. U., & C. (Y:5 N:3 A:5) (F)

05/30/2019 ASM. THIRD READING (Y:41 N:21 A:18) (P)

05/16/2019 ASM. APPR. (Y:13 N:3 A:2) (P)

04/22/2019 ASM. NAT. RES. (Y:6 N:2 A:3) (P)

04/10/2019 ASM. U. & E. (Y:11 N:1 A:3) (P)

Notes 1: Last month we noted that AB 56 had become a two year bill. The "two-year" status apparently is no longer the listed status, perhaps because of a vote on August 28 allowing "reconsideration". But regardless, the fact that the bill failed to advance out of its policy committee makes it clear the no further action will be taken on this bill this legislative session. According to legislative rules, no additional committee meeting will take place prior to close of the 2019 session.

[AB 126](#)

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

Current Analysis: 07/05/2019 [Senate Transportation \(text 6/24/2019\)](#)

Introduced: 12/3/2018

Last Amend: 6/24/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was TRANS. on 6/24/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-S. 2 YEAR

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

Summary: Would require the State Air Resources Board, for the purposes of the Clean Vehicle Rebate Project and until January 1, 2022, to increase rebate payments by \$500 for low-income applicants and to only offer rebates for plug-in hybrids that have an electric range of at least 40 miles.

Vote Events:

06/19/2019 SEN. E.Q. (Y:5 N:1 A:1) (P)

05/28/2019 ASM. THIRD READING (Y:75 N:0 A:5) (P)

05/16/2019 ASM. APPR. (Y:17 N:0 A:1) (P)

04/22/2019 ASM. NAT. RES. (Y:11 N:0 A:0) (P)

04/08/2019 ASM. TRANS. (Y:14 N:0 A:1) (P)

Notes 1: Amendments to this bill have removed any references to the Carl Moyer program.

[AB 176](#)

(Cervantes D) California Alternative Energy and Advanced Transportation Financing Authority: sales and use taxes: exclusions.

Current Analysis: 08/15/2019 [Senate Floor Analyses \(text 6/12/2019\)](#)

Introduced: 1/9/2019

Last Amend: 6/12/2019

Status: 8/22/2019-Ordered to inactive file at the request of Senator Roth.

Location: 8/22/2019-S. INACTIVE FILE

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 establishes the

California Alternative Energy and Advanced Transportation Financing Authority. The act authorizes, until January 1, 2021, the authority to provide financial assistance in the form of a sales and use tax exclusion for projects, as defined, including those that promote California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or the reduction in air and water pollution or energy consumption. The act prohibits the sales and use tax exclusions from exceeding \$100,000,000 for each calendar year. This bill would require the authority to evaluate a project application for the extent to which the project will create new, or result in the loss of, permanent, full-time jobs in the state, as specified.

Vote Events:

- 07/10/2019 SEN. GOV. & F. (Y:7 N:0 A:0) (P)
- 05/22/2019 ASM. THIRD READING (Y:77 N:0 A:3) (P)
- 05/16/2019 ASM. APPR. (Y:18 N:0 A:0) (P)
- 04/22/2019 ASM. REV. & TAX (Y:11 N:0 A:0) (P)
- 03/28/2019 ASM. RLS. (Y:10 N:0 A:2) (P)

AB 285

(Friedman D) California Transportation Plan.

Current Analysis: 09/03/2019 [Senate Floor Analyses \(text 8/30/2019\)](#)

Introduced: 1/28/2019

Last Amend: 8/30/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-S. THIRD READING

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

Summary: Would require the Department of Transportation to address in the California Transportation Plan how the state will achieve maximum feasible emissions reductions in order to attain a statewide reduction of greenhouse gas emissions of 40% below 1990 levels by the end of 2030 and how the plan is consistent with, and supports attaining, all state ambient air quality standards and national ambient air quality standards in all areas of the state as described in California's state implementation plans required by the federal Clean Air Act.

Vote Events:

- 08/30/2019 SEN. APPR. (Y:5 N:2 A:0) (P)
- 07/08/2019 SEN. APPR. (Y:7 N:0 A:0) (P)
- 06/19/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)
- 06/11/2019 SEN. TRANS. (Y:8 N:3 A:1) (P)
- 05/22/2019 ASM. THIRD READING (Y:59 N:18 A:3) (P)
- 05/16/2019 ASM. APPR. (Y:13 N:5 A:0) (P)
- 04/08/2019 ASM. NAT. RES. (Y:8 N:3 A:0) (P)
- 03/25/2019 ASM. TRANS. (Y:11 N:2 A:2) (P)

AB 293

(Garcia, Eduardo D) Greenhouse gases: offset protocols.

Current Analysis: 06/26/2019 [Senate Floor Analyses \(text 4/2/2019\)](#)

Introduced: 1/28/2019

Last Amend: 4/2/2019

Status: 7/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 85, Statutes of 2019.

Location: 7/12/2019-A. CHAPTERED

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

Summary: Current law, until January 1, 2031, establishes the Compliance Offsets Protocol Task Force to provide guidance to the state board in approving new offset protocols for a market-based compliance mechanism for the purposes of increasing offset projects with direct environmental benefits in the state while prioritizing disadvantaged communities, Native American or tribal lands, and rural and agricultural regions. This bill would require the task force to consider the development of additional offset protocols, including, but not limited to, protocols for the enhanced management or conservation of agricultural and natural lands, and for the enhancement and restoration of wetlands.

Vote Events:

- 07/05/2019 SEN. Assembly 3rd Reading (Y:30 N:0 A:10) (P)
- 06/05/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)
- 05/02/2019 ASM. CONSENT CALENDAR (Y:76 N:0 A:4) (P)
- 04/24/2019 ASM. APPR. (Y:18 N:0 A:0) (P)
- 03/25/2019 ASM. NAT. RES. (Y:11 N:0 A:0) (P)

Notes 1: Creating new offset protocols to provide more flexibility for entities required to comply with GHG emissions reductions should be viewed favorably.

[AB 296](#)

(Cooley D) Climate change: Climate Innovation Grant Program: voluntary tax contributions.

Current Analysis: 09/03/2019 [Senate Floor Analyses \(text 8/30/2019\)](#)

Introduced: 1/28/2019

Last Amend: 8/30/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-S. THIRD READING

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

Summary: Current law authorizes an individual to contribute amounts in excess of their personal income tax liability for the support of specified funds. Current law requires any new or extended voluntary contribution to include the words "voluntary tax contribution" in the name of the fund, to require the administering agency to include specified information about the fund on its internet website, to continuously appropriate from the fund the contributions made to the administering agency, to set a minimum contribution amount for the continuation of any voluntary tax contribution on the tax return form, and to include a generally applicable repeal date for a voluntary tax contribution. This bill would establish the Climate Innovation Grant Program, to be administered by the Strategic Growth Council or another entity identified by the council that it determines to have the appropriate skills necessary to successfully implement this program.

Vote Events:

- 08/30/2019 SEN. APPR. (Y:6 N:1 A:0) (P)
- 08/12/2019 SEN. APPR. (Y:7 N:0 A:0) (P)
- 07/10/2019 SEN. GOV. & F. (Y:6 N:1 A:0) (P)
- 07/03/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)
- 05/29/2019 ASM. THIRD READING (Y:75 N:1 A:4) (P)
- 05/16/2019 ASM. APPR. (Y:17 N:0 A:1) (P)
- 04/22/2019 ASM. REV. & TAX (Y:10 N:1 A:0) (P)
- 04/08/2019 ASM. NAT. RES. (Y:10 N:1 A:0) (P)

Notes 1: The latest analysis discussed anticipated agency costs to implement this proposal. The analysis anticipates a loss of \$8,000 the first year if adopted. The bill would allow individuals when filing their state tax returns to contribute money to the Climate Innovation Grant Program. Once the program attains reserves of \$2M grants could be awarded toward mitigating climate change causes. It is our understanding that if the program fails to result in contributions greater than \$250,000, the program would cease. We don't know whether funds would be reimbursed to the contributors should the program be curtailed.

[AB 352](#)

(Garcia, Eduardo D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Current Analysis: 05/21/2019 [Assembly Floor Analysis \(text 5/20/2019\)](#)

Introduced: 2/4/2019

Last Amend: 8/14/2019

Status: 8/14/2019-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on EQ.

Location: 8/14/2019-S. E.Q.

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

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,920,000,000 pursuant to the State General Obligation Bond Law to finance a wildlife prevention, safe drinking water, drought preparation, and flood protection program. The bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election. The bill would provide that its provisions are severable.

Vote Events:

- 05/30/2019 ASM. THIRD READING (Y:63 N:0 A:17) (P)
- 05/16/2019 ASM. APPR. (Y:13 N:1 A:4) (P)
- 03/25/2019 ASM. NAT. RES. (Y:8 N:0 A:3) (P)

Notes 1: We noted in last months report that Garcia's AB 352 had become a two year bill. Historically it's our understanding that once a bill became a two year bill no further action would take place until the second year of a two year session. In this case however, AB 352 has seen gut and amend modifications and now has become a bond proposal for consideration by California voters. The bill remains in Senate Environmental Quality so no further action should take place until next session.

[AB 394](#)

(Obernolte R) California Environmental Quality Act: exemption: egress route projects: fire safety.

Current Analysis: 09/01/2019 [Senate Floor Analyses \(text 8/13/2019\)](#)

Introduced: 2/6/2019

Last Amend: 8/13/2019

Status: 8/30/2019-From committee: Do pass. (Ayes 7. Noes 0.) (August 30). Read second time. Ordered to third reading.

Location: 8/30/2019-S. THIRD READING

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

Summary: Would, until January 1, 2025, exempt from CEQA egress route projects undertaken by a public agency that are specifically recommended by the State Board of Forestry and Fire Protection that improve the fire safety of an existing subdivision if certain conditions are met. The bill would require the lead agency to hold a noticed public meeting to hear and respond to public comments before determining that a project is exempt. The bill would require the lead agency to file a notice of exemption with the Office of Planning and Research and with the clerk of the county in which the project will be located.

Vote Events:

08/30/2019 SEN. APPR. (Y:7 N:0 A:0) (P)

08/26/2019 SEN. APPR. (Y:6 N:0 A:1) (P)

07/09/2019 SEN. N.R. & W. (Y:8 N:0 A:1) (P)

06/05/2019 SEN. E.Q. (Y:4 N:0 A:3) (P)

04/22/2019 ASM. THIRD READING (Y:73 N:1 A:6) (P)

04/10/2019 ASM. APPR. (Y:17 N:0 A:1) (P)

03/25/2019 ASM. NAT. RES. (Y:10 N:1 A:0) (P)

Notes 1: Although not directly an air quality bill, we include to keep the District apprised what Assembly Member Olberholte is up to. This bill attempts to ease CEQA requirements for forestry management in potential fire areas.

[AB 423](#)

(Gloria D) San Diego County Air Pollution Control District: members and duties.

Current Analysis: 09/03/2019 [Senate Appropriations \(text 7/5/2019\)](#)

Introduced: 2/7/2019

Last Amend: 8/30/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-S. THIRD READING

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

Summary: Current law provides for the establishment of air pollution control districts and air quality management districts. This bill would require, as of March 1, 2021, the San Diego County Air Pollution Control District to have a specified membership. The bill would require the San Diego air district to appoint a specified liaison to consult with the United States Navy, the United States Marine Corps, and the United States Coast Guard, as specified; create and maintain an internet website separate from the County of San Diego internet website and post specified information, including, among others, the agendas and minutes of the governing board of the San Diego air district and all current and pending permit information and settled enforcement actions; apply for statewide grant and incentive programs; evaluate the current public complaint process, as specified; develop a plan for a comprehensive air monitoring program, as specified; publish an annual air quality report, as specified; and consider adopting an indirect source rule, as specified.

Vote Events:

08/30/2019 SEN. APPR. (Y:5 N:2 A:0) (P)

08/19/2019 SEN. APPR. (Y:5 N:0 A:2) (P)

07/03/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)

06/26/2019 SEN. GOV. & F. (Y:5 N:0 A:2) (P)

05/28/2019 ASM. THIRD READING (Y:56 N:14 A:10) (P)

05/16/2019 ASM. APPR. (Y:14 N:3 A:1) (P)

04/08/2019 ASM. NAT. RES. (Y:8 N:2 A:1) (P)

Notes 1: Considering this bill is directed at the San Diego AQMD, we thought the Mojave District may be interested.

[AB 661](#)

(McCarty D) Wildfire Smoke Air Pollution Emergency Plan: Sacramento Metropolitan Air Quality Management District.

Current Analysis: 09/03/2019 [Senate Floor Analyses \(text 8/30/2019\)](#)

Introduced: 2/15/2019

Last Amend: 8/30/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-S. THIRD READING

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

Summary: Would require the Sacramento Metropolitan Air Quality Management District to prepare a wildfire smoke air pollution emergency plan as an informational source for local agencies and the public during a wildfire smoke air pollution emergency, as specified. The bill would authorize the Sacramento Metropolitan Air Quality Management District to conduct public education, marketing, demonstration, monitoring, research, and evaluation programs or projects with respect to wildfire smoke impact control measures.

Vote Events:

- 08/30/2019 SEN. APPR. (Y:7 N:0 A:0) (P)
- 07/08/2019 SEN. APPR. (Y:7 N:0 A:0) (P)
- 06/19/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)
- 05/28/2019 ASM. THIRD READING (Y:76 N:0 A:4) (P)
- 05/16/2019 ASM. APPR. (Y:18 N:0 A:0) (P)
- 04/08/2019 ASM. NAT. RES. (Y:10 N:0 A:1) (P)

Notes 1: AB 661, as amended, now deals specifically with the Sacramento Metropolitan Air Quality Management District.

AB 740

(Burke D) Property insurance: fire hazard severity zones.

Current Analysis: 08/20/2019 [Senate Floor Analyses \(text 7/2/2019\)](#)

Introduced: 2/19/2019

Last Amend: 7/2/2019

Status: 9/3/2019-Ordered to inactive file at the request of Senator McGuire.

Location: 9/3/2019-S. INACTIVE FILE

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

Summary: The California FAIR Plan Association is a joint reinsurance association formed by state insurers licensed to write and engaged in writing basic property insurance within this state to assist persons in securing basic property insurance and to formulate and administer a program and FAIR Plan for the equitable apportionment among insurers of basic property insurance. Existing law requires each insurer to participate in the writings, expenses, and profits and losses of the association in the proportion that its premiums written bear to the aggregate premiums written by all insurers in the program, as specified, but requires the plan to provide for a method for insurers who voluntarily write basic property insurance on risks located in areas designated as brush hazard areas to be proportionately relieved of the liability to participate in the plan. This bill would add to the insurers that are proportionately relieved of the liability to participate in the FAIR Plan those voluntarily writing basic property insurance on risks in high or very high fire hazard severity zones, as determined and mapped by the Department of Forestry and Fire Protection.

Vote Events:

- 07/10/2019 SEN. INS. (Y:11 N:0 A:2) (P)
- 06/26/2019 SEN. INS. (Y:10 N:0 A:3) (P)
- 05/29/2019 ASM. THIRD READING (Y:73 N:0 A:7) (P)
- 05/16/2019 ASM. APPR. (Y:14 N:0 A:4) (P)
- 04/24/2019 ASM. INS. (Y:12 N:0 A:2) (P)

AB 753

(Garcia, Eduardo D) Tribal gaming: compact ratification.

Current Analysis: 08/29/2019 [Senate Floor Analyses \(text 8/28/2019\)](#)

Introduced: 2/19/2019

Last Amend: 8/28/2019

Status: 9/3/2019-Read third time. Urgency clause adopted. Passed. Ordered to the Assembly. (Ayes 40. Noes 0.). In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 5 pursuant to Assembly Rule 77.

Location: 9/3/2019-A. CONCURRENCE

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

Summary: Would ratify a specified amendment to the tribal-state gaming compact entered into between the State of California and the Cabazon Band of Mission Indians, executed on August 21, 2019. The bill would provide that, in deference to tribal sovereignty, certain actions are not projects for the purposes of CEQA.

Vote Events:

- 09/03/2019 SEN. Assembly 3rd Reading (Y:40 N:0 A:0) (P)
- 05/30/2019 ASM. THIRD READING (Y:56 N:4 A:20) (P)
- 05/16/2019 ASM. APPR. (Y:14 N:1 A:3) (P)

Notes 1: Garcias AB 753 is another example of a bill that as of our last report was listed as a two-year bill, stalling in its policy committee, but now, has been gutted and amended and has been passed by the Senate, all without any normal hearings. The bill provides relief from certain CEQA requirement for the Cabazon Band of Mission Indians

AB 836**(Wicks D) Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program.****Current Analysis:** 09/03/2019 [Senate Floor Analyses \(text 8/30/2019\)](#)**Introduced:** 2/20/2019**Last Amend:** 8/30/2019**Status:** 9/3/2019-Read second time. Ordered to third reading.**Location:** 9/3/2019-S. THIRD READING

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

Summary: Would establish until January 1, 2025, the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program, to be administered by the State Air Resources Board, to provide funding through a grant program to retrofit ventilation systems to create a network of clean air centers in order to mitigate the adverse public health impacts due to wildfires and other smoke events, as specified. The bill would specify that moneys for the program would be available upon appropriation, and that the implementation of these provisions is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

Vote Events:

08/30/2019 SEN. APPR. (Y:7 N:0 A:0) (P)

08/12/2019 SEN. APPR. (Y:7 N:0 A:0) (P)

07/03/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)

05/29/2019 ASM. THIRD READING (Y:78 N:0 A:2) (P)

05/16/2019 ASM. APPR. (Y:18 N:0 A:0) (P)

04/08/2019 ASM. NAT. RES. (Y:11 N:0 A:0) (P)

Notes 1: This bill has been significantly amended. Dealing originally with issues associated with the San Francisco Bay AQMD, the bill now proposes grant programs to assist in the establishment of clean air structures to assist vulnerable populations in seeking shelter from smoke associated with wildfires.

AB 839**(Mullin D) Climate adaptation strategy: strategic resiliency framework: Resiliency through Adaptation, Economic Vitality, and Equity Account.****Current Analysis:** 08/12/2019 [Senate Appropriations \(text 6/26/2019\)](#)**Introduced:** 2/20/2019**Last Amend:** 6/26/2019**Status:** 8/30/2019-In committee: Held under submission.**Location:** 8/12/2019-S. APPR. SUSPENSE FILE

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 to update every 3 years the state's climate adaptation strategy, known as the Safeguarding California Plan, to identify vulnerabilities to climate change by sectors and priority actions needed to reduce the risks in those sectors. This bill would require the Secretary of the Natural Resources Agency, on or before July 1, 2021, to review the plan and develop a strategic resiliency framework, as specified. The bill would require updates to the plan to include, among other things, a review of the progress made implementing past plans and an evaluation of each lead agency's lead adaptation efforts, as well as a detailed description of the framework developed by the secretary.

Vote Events:

08/12/2019 SEN. APPR. (Y:7 N:0 A:0) (P)

06/25/2019 SEN. N.R. & W. (Y:7 N:1 A:1) (P)

05/23/2019 ASM. THIRD READING (Y:65 N:8 A:7) (P)

05/16/2019 ASM. APPR. (Y:14 N:3 A:1) (P)

04/08/2019 ASM. NAT. RES. (Y:9 N:1 A:1) (P)

AB 1046**(Ting D) Air Quality Improvement Program: Clean Vehicle Rebate Project.****Current Analysis:** 08/19/2019 [Senate Appropriations \(text 8/13/2019\)](#)**Introduced:** 2/21/2019**Last Amend:** 8/13/2019

Status: 8/30/2019-In committee: Held under submission.

Location: 8/19/2019-S. APPR. SUSPENSE FILE

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

Summary: Would require the State Air Resources Board to develop a plan to provide for the continuous funding of the Clean Vehicle Rebate Project, as specified.

Vote Events:

08/19/2019 SEN. APPR. (Y:5 N:0 A:2) (P)
07/09/2019 SEN. TRANS. (Y:9 N:4 A:0) (P)
07/03/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)
05/29/2019 ASM. THIRD READING (Y:55 N:21 A:4) (P)
05/16/2019 ASM. APPR. (Y:13 N:5 A:0) (P)
04/22/2019 ASM. TRANS. (Y:10 N:4 A:1) (P)

Notes 1: Assemblymember Ting's AB 1046, as amended, creates the California Electric Vehicle Initiative to be administered by the Air Resources Board and will manage the granting of financial incentives, which we assume will come from the general fund, to promote the goal of 5,000,000 electric vehicles on California's roads by 2030. Amendments to the bill strike the word "continuous" but did not pass out of the Senate Fiscal committee so can be considered a two-year bill.

[AB 1080](#)

(Gonzalez D) California Circular Economy and Plastic Pollution Reduction Act.

Current Analysis: 08/31/2019 [Senate Floor Analyses \(text 8/14/2019\)](#)

Introduced: 2/21/2019

Last Amend: 8/14/2019

Status: 8/30/2019-From committee: Do pass. (Ayes 5. Noes 1.) (August 30). Read second time. Ordered to third reading.

Location: 8/30/2019-S. THIRD READING

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

Summary: Would enact the California Circular Economy and Plastic Pollution Reduction Act, which would require the department, before January 1, 2024, to adopt regulations that require producers, as defined, (1) to source reduce, to the maximum extent feasible, single-use packaging and priority single-use plastic products, as defined, (2) to ensure that all single-use packaging and priority single-use plastic products manufactured on or after January 1, 2030, and offered for sale, sold, distributed, or imported in or into the California market are recyclable or compostable, and (3) to collectively achieve and maintain, by January 1, 2030, a statewide 75% reduction of the waste generated from single-use packaging, and a statewide 75% reduction of the waste generated from priority single-use plastic products, offered for sale, sold, distributed, or imported in or into the state through source reduction, recycling, or composting. T

Vote Events:

08/30/2019 SEN. APPR. (Y:5 N:1 A:1) (P)
08/26/2019 SEN. APPR. (Y:6 N:0 A:1) (P)
07/03/2019 SEN. E.Q. (Y:5 N:0 A:2) (P)
05/30/2019 ASM. THIRD READING (Y:44 N:19 A:17) (P)
05/16/2019 ASM. APPR. (Y:12 N:4 A:2) (P)
03/25/2019 ASM. NAT. RES. (Y:8 N:3 A:0) (P)

[AB 1167](#)

(Mathis R) Greenhouse Gas Reduction Fund: high-speed rail: forestry and fire protection.

Current Analysis: 03/28/2019 [Assembly Transportation \(text 3/13/2019\)](#)

Introduced: 2/21/2019

Last Amend: 3/13/2019

Status: 4/1/2019-In committee: Set, first hearing. Failed passage. Reconsideration granted.

Location: 3/14/2019-A. TRANS.

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

Summary: Would no longer continuously appropriate 25% of the annual proceeds of the Greenhouse Gas Reduction Fund for certain components of a specified high-speed rail project. The bill, beginning with the 2021–22 fiscal year, would continuously appropriate 25% of the annual proceeds of the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection to purchase new engines and equipment, hire new firefighters, and clear overgrowth or tree mortality and to the Firefighter Home Relief Trust Fund Program.

Vote Events:

04/01/2019 ASM. TRANS. (Y:4 N:10 A:1) (F)

Notes 1: As suspected, this bill failed to pass out of committee, however was granted reconsideration. We are not surprised considering the bill proposed to divert funds from the high speed rail project. We don't understand why this bill has not be designated as a two-year bill.

AB 1195

(O'Donnell D) California Global Warming Solutions Act of 2006: Low-Carbon Fuel Standard regulations.

Current Analysis: 08/14/2019 [Senate Floor Analyses \(text 6/24/2019\)](#)

Introduced: 2/21/2019

Last Amend: 6/24/2019

Status: 8/13/2019-Read second time. Ordered to third reading.

Location: 8/13/2019-S. THIRD READING

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, through a public process, to consider before January 1, 2023, allowing renewable natural gas or biogas that is delivered via a common carrier pipeline to a crude oil production or transport facility from a source that the state board determines directly reduces emissions of methane in the state to generate specified credits under the Low-Carbon Fuel Standard regulations.

Vote Events:

- 07/09/2019 SEN. TRANS. (Y:13 N:0 A:0) (P)
- 06/19/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)
- 05/22/2019 ASM. THIRD READING (Y:62 N:5 A:13) (P)
- 05/15/2019 ASM. APPR. (Y:16 N:0 A:2) (P)
- 04/08/2019 ASM. NAT. RES. (Y:7 N:2 A:2) (P)

Notes 1: This bill has seen some amendments and now asks ARB to consider providing Low Carbon Fuel Standard credit to certain low carbon fuels that during their production achieve lower methane emissions.

AB 1237

(Aguiar-Curry D) Greenhouse Gas Reduction Fund: guidelines.

Current Analysis: 08/29/2019 [Assembly Floor Analysis \(text 8/13/2019\)](#)

Introduced: 2/21/2019

Last Amend: 8/13/2019

Status: 8/30/2019-Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 75. Noes 0.)

Location: 8/30/2019-A. ENROLLMENT

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, no later than January 1, 2021, would require an agency that receives an appropriation from the Greenhouse Gas Reduction Fund to post on the internet website of the agency's program from which moneys from the fund are being allocated the guidelines, as specified, for how moneys from the fund are allocated for competitive financing programs, as specified.

Vote Events:

- 08/30/2019 ASM. CONCURRENCE (Y:75 N:0 A:4) (P)
- 08/26/2019 SEN. Assembly 3rd Reading (Y:39 N:0 A:1) (P)
- 06/05/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)
- 05/02/2019 ASM. CONSENT CALENDAR (Y:76 N:0 A:4) (P)
- 04/24/2019 ASM. APPR. (Y:18 N:0 A:0) (P)
- 04/08/2019 ASM. NAT. RES. (Y:11 N:0 A:0) (P)

AB 1388

(Flora R) Forestry: forest health: fire prevention: grants: funding.

Introduced: 2/22/2019

Last Amend: 3/28/2019

Status: 4/1/2019-Re-referred to Com. on NAT. RES.

Location: 3/28/2019-A. NAT. RES.

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

Summary: Would, beginning in the 2020–21 fiscal year and until the 2030–31 fiscal year, continuously appropriate \$500,000,000 from the General Fund annually to the Natural Resources Agency for healthy forest programs that

greenhouse gas emissions caused by uncontrolled wildfires, as specified, including for healthy forest projects in or adjacent to state responsibility areas, or on federal lands pursuant to Good Neighbor Authority agreements entered into with the federal government.

AB 1406

(O'Donnell D) Alternative and Renewable Fuel and Vehicle Technology Program.

Current Analysis: 08/12/2019 [Senate Appropriations \(text 7/2/2019\)](#)

Introduced: 2/22/2019

Last Amend: 7/2/2019

Status: 8/30/2019-In committee: Held under submission.

Location: 8/12/2019-S. APPR. SUSPENSE FILE

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

Summary: Current law requires the State Energy Resources Conservation and Development Commission, as part of the Alternative and Renewable Fuel and Vehicle Technology Program, to provide funding measures to certain entities to develop and deploy innovative technologies that transform California’s fuel and vehicle types to help attain the state’s climate change policies. Current law requires the commission to give preference to those projects that maximize the goals of the program based on specified criteria. This bill would require the commission, until January 1, 2024, to allocate no less than 10% of the moneys available for allocation as part of the program for alternative fuel and advanced technology vehicles

Vote Events:

- 08/12/2019 SEN. APPR. (Y:7 N:0 A:0) (P)
- 06/25/2019 SEN. TRANS. (Y:11 N:1 A:1) (P)
- 05/22/2019 ASM. CONSENT CALENDAR (Y:77 N:0 A:3) (P)
- 05/15/2019 ASM. APPR. (Y:16 N:0 A:2) (P)
- 04/22/2019 ASM. TRANS. (Y:13 N:0 A:2) (P)

AJR 7

(Gloria D) Green New Deal.

Current Analysis: 07/10/2019 [Assembly Floor Analysis \(text 7/1/2019\)](#)

Introduced: 2/11/2019

Last Amend: 7/1/2019

Status: 9/3/2019-Coauthors revised. Adopted and to Senate.

Location: 9/3/2019-S. DESK

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

Summary: This measure would encourage the United States Congress to adopt climate policies, including those that might be adopted under the Green New Deal, that build upon California’s programs that have reduced greenhouse gas emissions while improving air and water quality, create new green jobs, and improve disadvantaged communities and that just climate actions offer the nation an opportunity to achieve community-minded policies that California has successfully adopted while growing its economy.

Vote Events:

- 09/03/2019 ASM. THIRD READING (Y:50 N:15 A:14) (P)
- 07/08/2019 ASM. NAT. RES. (Y:7 N:3 A:1) (P)

AJR 10

(Reves D) Federal Clean Air Act.

Current Analysis: 09/03/2019 [Senate Floor Analyses \(text 8/30/2019\)](#)

Introduced: 2/26/2019

Last Amend: 8/30/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-S. THIRD READING

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

Summary: Would state that the Legislature strongly and unequivocally supports the existing fuel economy and greenhouse gas emissions standards, the preservation of California’s authority to enact stricter air pollution standards pursuant to its federal Clean Air Act waiver, and the enactment of a voluntary agreement between the State Air Resources Board and automobile manufacturers that preserves California’s status as a leader in the fight for clean air; will consider any and all appropriate actions to maintain and enact vehicle emissions standards for the protection of public health, California residents, and the economy; supports any and all appropriate actions that enhance longstanding protections for the public’s health, California residents, and the economy; and strongly urges the President and

President of the United States, the Secretary of the United States Department of Transportation, and the Administrator of the United States Environmental Protection Agency to reject the Safer Affordable Fuel-Efficient Vehicles Proposed Rule for Model Years 2021–2026.

Vote Events:

08/21/2019 SEN. E.Q. (Y:5 N:0 A:2) (P)
 07/08/2019 ASM. THIRD READING (Y:64 N:1 A:14) (P)
 06/24/2019 ASM. NAT. RES. (Y:7 N:1 A:3) (P)

Notes 1: Not surprising the State would stick by their guns regarding various emission standards compared to changes in Federal rules. The bill provides arguments why California should maintain existing waivers from Federal clean air standards allowing the state to develop more stringent emissions standards than federal requirements.

SB 1

(Atkins D) California Environmental, Public Health, and Workers Defense Act of 2019.

Current Analysis: 08/19/2019 [Assembly Appropriations \(text 7/1/2019\)](#)

Introduced: 12/3/2018

Last Amend: 9/3/2019

Status: 9/3/2019-Read second time and amended. Ordered to second reading.

Location: 9/3/2019-A. SECOND READING

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

Summary: Current state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species. This bill would, until January 20, 2025, require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species, as specified. By imposing new duties on local agencies, this bill would impose a state-mandated local program.

Vote Events:

08/30/2019 ASM. APPR. (Y:13 N:5 A:0) (P)
 07/09/2019 ASM. JUD. (Y:8 N:2 A:2) (P)
 07/08/2019 ASM. NAT. RES. (Y:8 N:3 A:0) (P)
 06/18/2019 ASM. E.S. & T.M. (Y:6 N:1 A:1) (P)
 05/29/2019 SEN. Senate 3rd Reading (Y:28 N:10 A:0) (P)
 05/16/2019 SEN. APPR. (Y:4 N:2 A:0) (P)
 05/13/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 04/23/2019 SEN. JUD. (Y:6 N:2 A:1) (P)
 04/09/2019 SEN. N.R. & W. (Y:7 N:2 A:0) (P)
 03/20/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)

Notes 1: This bill seems to be in direct opposition to the current Federal roll back certain regulations. We invite the readers to review the latest bill analysis for a better understanding as well as view the list of those support the legislation as well at those in opposition.

SB 43

(Allen D) Carbon intensity and pricing: retail products.

Current Analysis: 07/05/2019 [Assembly Revenue And Taxation \(text 7/1/2019\)](#)

Introduced: 12/3/2018

Last Amend: 7/1/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was REV. & TAX on 6/24/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-A. 2 YEAR

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

Summary: Would require the State Air Resources Board, no later than January 1, 2022, to submit a report to the Legislature on the findings from a study, as specified, to determine the feasibility and practicality of assessing the carbon intensity of all retail products subject to the tax imposed pursuant to the Sales and Use Tax Law, so that the total carbon equivalent emissions associated with such retail products can be quantified.

Vote Events:

07/08/2019 ASM. REV. & TAX (Y:10 N:0 A:1) (P)
 07/08/2019 ASM. REV. & TAX (Y:5 N:1 A:5) (F)
 06/24/2019 ASM. NAT. RES. (Y:8 N:3 A:0) (P)
 05/28/2019 SEN. Senate 3rd Reading (Y:26 N:10 A:2) (P)

05/16/2019 SEN. APPR. (Y:4 N:2 A:0) (P)
 05/13/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 04/24/2019 SEN. GOV. & F. (Y:4 N:2 A:1) (P)
 03/20/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)

Notes 1: This bill apparently seeks to evaluate whether a Carbon Tax should be established to encourage the use of less carbon intensive products. Interestingly as of a July 1 amendment, the title of this bill no longer contains the word "tax"

SB 45

(Allen D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Current Analysis: 04/22/2019 [Senate Governance And Finance \(text 4/4/2019\)](#)

Introduced: 12/3/2018

Last Amend: 8/30/2019

Status: 8/30/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.

Location: 4/25/2019-S. APPR.

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

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,999,000,000 pursuant to the State General Obligation Bond Law to finance projects to finance a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Vote Events:

04/24/2019 SEN. GOV. & F. (Y:5 N:2 A:0) (P)

04/03/2019 SEN. E.Q. (Y:5 N:1 A:1) (P)

03/26/2019 SEN. N.R. & W. (Y:7 N:1 A:1) (P)

Notes 1: SB 45 remains a bond proposal to be considered further next year.

SB 54

(Allen D) California Circular Economy and Plastic Pollution Reduction Act.

Current Analysis: 08/19/2019 [Assembly Appropriations \(text 8/14/2019\)](#)

Introduced: 12/11/2018

Last Amend: 8/14/2019

Status: 9/3/2019-Read second time. Ordered to third reading.

Location: 9/3/2019-A. THIRD READING

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

Summary: Would enact the California Circular Economy and Plastic Pollution Reduction Act, which would require the Department of Resources Recycling and Recovery, before January 1, 2024, to adopt regulations that require producers, as defined, (1) to source reduce, to the maximum extent feasible, single-use packaging and priority single-use plastic products, as defined, (2) to ensure that all single-use packaging and priority single-use plastic products manufactured on or after January 1, 2030, and offered for sale, sold, distributed, or imported in or into the California market are recyclable or compostable, and (3) to collectively achieve and maintain, by January 1, 2030, a statewide 75% reduction of the waste generated from single-use packaging, and a statewide 75% reduction of the waste generated from priority single-use plastic products, offered for sale, sold, distributed, or imported in or into the state through source reduction, recycling, or composting.

Vote Events:

08/30/2019 ASM. APPR. (Y:12 N:4 A:2) (P)

07/08/2019 ASM. NAT. RES. (Y:7 N:3 A:1) (P)

05/29/2019 SEN. Senate 3rd Reading (Y:28 N:8 A:2) (P)

05/16/2019 SEN. APPR. (Y:4 N:2 A:0) (P)

05/13/2019 SEN. APPR. (Y:6 N:0 A:0) (P)

03/20/2019 SEN. E.Q. (Y:5 N:0 A:2) (P)

SB 162

(Galgiani D) State Board of Equalization: oversight of local voter approved bonds.

Current Analysis: 05/18/2019 [Senate Floor Analyses \(text 1/24/2019\)](#)

Introduced: 1/24/2019

Last Amend: 6/19/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was REV. & TAX on 6/3/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-A. 2 YEAR

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

Summary: Would require, by January 1, 2022, and January 1 of each year thereafter, a local agency to transmit specified data related to the issuance of any bonds by that local agency pursuant to the authorization of any local bond act, as defined, to the State Board of Equalization, including the amount of debt authorized by the local bond act. The bill would require, by December 31, 2022, and by December 31 of each year thereafter, the board to aggregate the data received in a report to the Legislature and make the report available on the board's internet website.

Vote Events:

05/22/2019 SEN. Senate 3rd Reading (Y:38 N:0 A:0) (P)
 05/16/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 04/29/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 04/10/2019 SEN. GOV. & F. (Y:7 N:0 A:0) (P)

Notes 1: This bill is now a perfect example of the gut and amend process. The bill originally dealt with sales and use tax exclusions and now addresses the management of locally administered municipal bonds. The bill will be removed from future reports.

SB 168

(Wieckowski D) Climate change: Chief Climate Resilience Officer.

Current Analysis: 08/19/2019 [Assembly Appropriations \(text 6/27/2019\)](#)

Introduced: 1/28/2019

Last Amend: 6/27/2019

Status: 8/30/2019-August 30 hearing: Held in committee and under submission.

Location: 8/21/2019-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 Chief Climate Resilience Officer, appointed by the Governor and subject to confirmation by the Senate, in the Office of Planning and Research to serve as the statewide lead for planning and coordination of climate adaptation policy and implementation in California, and would specify the duties of the chief officer. The bill would make the chief officer, or the chief officer's designee, a member of the advisory council and would designate the chief officer, or the chief officer's designee, as the chair of the advisory council.

Vote Events:

06/24/2019 ASM. NAT. RES. (Y:7 N:2 A:2) (P)
 05/23/2019 SEN. Senate 3rd Reading (Y:29 N:9 A:0) (P)
 05/16/2019 SEN. APPR. (Y:4 N:2 A:0) (P)
 05/06/2019 SEN. APPR. (Y:5 N:0 A:1) (P)
 04/09/2019 SEN. N.R. & W. (Y:7 N:2 A:0) (P)
 03/20/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)

Notes 1: This bill proposes to establish a new state officer, appointed by the governor, to be supported by an advisory council, whose roll is help develop climate adaptation policies in the state. Considering it did not pass out of the Assembly Fiscal committee it will be reconsidered next year.

SB 210

(Leyva D) Heavy-Duty Vehicle Inspection and Maintenance Program.

Current Analysis: 08/19/2019 [Assembly Appropriations \(text 6/24/2019\)](#)

Introduced: 2/4/2019

Last Amend: 9/3/2019

Status: 9/4/2019-Action From SECOND READING: Read second time.To THIRD READING.

Location: 9/4/2019-A. THIRD READING

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

Summary: Current law requires the State Air Resources Board, in consultation with the Bureau of Automotive Repair and a specified review committee, to adopt regulations requiring owners or operators of heavy-duty diesel motor vehicles to perform regular inspections of their vehicles for excessive emissions of smoke. Current law requires the state board, in consultation with the State Energy Resources Conservation and Development Commission, to adopt regulations requiring heavy-duty diesel motor vehicles to use emission control equipment and alternative fuels. This bill would require the state board, in consultation with the bureau and other specified entities, to implement a pilot program that develops and demonstrates technologies that show potential for readily bringing heavy-duty vehicles into an inspection and maintenance program.

Vote Events:

08/30/2019 ASM. APPR. (Y:13 N:4 A:1) (P)

07/08/2019 ASM. NAT. RES. (Y:8 N:3 A:0) (P)
 07/01/2019 ASM. TRANS. (Y:12 N:2 A:1) (P)
 05/29/2019 SEN. Senate 3rd Reading (Y:27 N:10 A:1) (P)
 05/16/2019 SEN. APPR. (Y:4 N:2 A:0) (P)
 05/16/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 04/23/2019 SEN. TRANS. (Y:8 N:3 A:1) (P)
 03/20/2019 SEN. E.Q. (Y:5 N:2 A:0) (P)

SB 216

(Galgiani D) Carl Moyer Memorial Air Quality Standards Attainment Program: used heavy-duty truck exchange.

Current Analysis: 08/12/2019 [Assembly Appropriations \(text 7/11/2019\)](#)

Introduced: 2/6/2019

Last Amend: 7/11/2019

Status: 8/30/2019-August 30 hearing: Held in committee and under submission.

Location: 8/14/2019-A. APPR. SUSPENSE FILE

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

Summary: Current law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board. 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, until January 1, 2023, would add as an eligible project under the program a used heavy-duty truck exchange, as specified.

Vote Events:

07/08/2019 ASM. NAT. RES. (Y:11 N:0 A:0) (P)
 07/01/2019 ASM. TRANS. (Y:15 N:0 A:0) (P)
 05/23/2019 SEN. Special Consent (Y:38 N:0 A:0) (P)
 05/16/2019 SEN. APPR. (Y:6 N:0 A:0) (P)
 05/06/2019 SEN. APPR. (Y:5 N:0 A:1) (P)
 04/23/2019 SEN. TRANS. (Y:12 N:0 A:0) (P)
 04/03/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)

Notes 1: Last month we speculated that this bill would advance, however that is not the case. Perhaps the reason for its failure is that latest bill analysis seems to indicate that it's proposed program may be replicative to programs already established at ARB.

SB 535

(Moorlach R) Greenhouse gases: wildfires and forest fires: air emissions.

Current Analysis: 08/12/2019 [Assembly Appropriations \(text 6/27/2019\)](#)

Introduced: 2/21/2019

Last Amend: 6/27/2019

Status: 8/30/2019-August 30 hearing: Held in committee and under submission.

Location: 8/14/2019-A. APPR. SUSPENSE FILE

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

Summary: Current law requires the State Air Resources Board, in consultation with the Department of Forestry and Fire Protection, to develop, among other things, a report that assesses greenhouse gas emissions associated with wildfire and forest management activities. Current law requires the state board to develop the report every 5 years, with the first report completed on or before December 31, 2020. This bill would require the report to include information, if feasible, regarding the greenhouse gas, criteria air pollutant, and short-lived climate pollutant emissions from wildfires and forest fires, an assessment of the increased severity of wildfires and forest fires from the impacts of climate change, and a calculation of the increase in the emissions of criteria air pollutants, greenhouse gases, and short-lived climate pollutants based on the increased severity of wildfires and forest fires assessed.

Vote Events:

06/24/2019 ASM. NAT. RES. (Y:9 N:1 A:1) (P)
 05/20/2019 SEN. Senate 3rd Reading (Y:38 N:0 A:0) (P)
 04/24/2019 SEN. E.Q. (Y:7 N:0 A:0) (P)

Notes 1: As the bill points out, ARB is already tasked with generating a report every 5 years detailing the air quality

impacts of wildfires. This bill would have ARB include in that report projections of emissions from increased quantity and severity of wild fires as a result of climate change, "if feasible".

SB 629

(McGuire D) Air districts: hearing boards: notice requirements.

Current Analysis: 05/03/2019 [Senate Floor Analyses \(text 2/22/2019\)](#)

Introduced: 2/22/2019

Status: 7/12/2019-Failed Deadline pursuant to Rule 61(a)(11). (Last location was NAT. RES. on 5/30/2019)(May be acted upon Jan 2020)

Location: 7/12/2019-A. 2 YEAR

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

Summary: The State Air Resources Board is designated with the primary responsibility for the control of vehicular air pollution and air pollution control and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Current law establishes one or more hearing boards in each district for the purposes of performing specified functions, including, among others, issuing specified interim variances. The Ralph M. Brown Act requires a legislative body of a local agency, at least 72 hours before a regular meeting, to post an agenda containing, among other things, information on the time and location of the meeting. The act requires the body, upon the request of a person, to mail the agenda to the person at the time the agenda is posted. This bill would require a hearing board to send a notice of the hearing not less than 72 hours before the hearing to any person who requests the notice, thereby making changes to conform the notice provisions with the notice provisions of the act.

Vote Events:

05/09/2019 SEN. Consent Calendar (Y:38 N:0 A:0) (P)

05/01/2019 SEN. GOV. & F. (Y:7 N:0 A:0) (P)

Notes 1: This bill makes adjustments to Hearing Board notification requirements and therefore should be of interest to the District.

Total Measures: 34

Total Tracking Forms: 34

The following page(s) contain the backup material for Agenda Item: [Set date of October 28, 2019 to conduct a public hearing to consider the adoption of the 70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; Certification of Nonattainment New Source Review Program; and, Emission Statement Certification \(70 ppb O3 Evaluation\) and approval of California Environmental Quality Act \(CEQA\) documentation.](#) Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.

Please scroll down to view the backup material.

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

AGENDA ITEM #9

PAGE 1

DATE: September 23, 2019

RECOMMENDATION: Set date of October 28, 2019 to conduct a public hearing to consider the adoption of the *70 ppb Ozone Standard Implementation Evaluation: RACT SIP Analysis; Federal Negative Declarations; Certification of Nonattainment New Source Review Program; and, Emission Statement Certification (70 ppb O₃ Evaluation)* and approval of California Environmental Quality Act (CEQA) documentation.

SUMMARY: This item officially sets the date for the mandatory public hearing to be held on the adoption of the *70 ppb O₃ Evaluation*. The *70 ppb O₃ Evaluation* is proposed for adoption because portions of the MDAQMD have been designated as an ozone non-attainment area and classified Severe-15 for the 0.070 ppm 8-hour ozone standard, and as a result the USEPA requires the MDAQMD to submit an updated RACT SIP analysis (including FNDs as needed), certification of SIP approved Nonattainment New Source Review Program, and certification of Emission Statements.

CONFLICT OF INTEREST: None

BACKGROUND: Effective October 26, 2015 (80 FR 65292), the United States Environmental Protection Agency (USEPA) lowered the primary ozone National Ambient Air Quality Standard (NAAQS) from 0.075 parts per million (ppm) to 0.070 ppm. USEPA revised both the health-based and welfare-based standards for ozone. The final rule sets forth a range of nonattainment area State Implementation Plan (SIP) requirements for the 2015 ozone NAAQS. This final rule is largely an update to the implementing regulations previously promulgated for the 2008 ozone NAAQS, and USEPA is retaining without significant revision most of the provisions and applying them to the 2015 ozone NAAQS. The following elements are therefore required for District implementation of the 2015 ozone NAAQS: Reasonably Available Control Technology (RACT) SIP analysis (including Federal Negative Declarations (FND) as needed); certification of SIP approved Nonattainment New Source Review Program; and certification of Emission Statements.

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

AGENDA ITEM #9

PAGE 2

The Federal Clean Air Act (FCAA) requires areas designated non-attainment and classified moderate and above to implement RACT for sources subject to Control Technique Guidelines (CTG) documents issued by the USEPA for “major sources” of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) which are ozone precursors. For purposes of the FCAA, portions of the District have been designated non-attainment for ozone and classified as Severe-15 for the 2019 8-hour ozone standard. As a result of this change, USEPA is requiring that all non-attainment areas adopt and submit an updated RACT SIP Analysis to ensure that District Rules adequately address current RACT requirements. For those CTG source categories not represented within the area designated non-attainment for ozone, USEPA requires the submission of a FND certifying that those sources are not present. These “Federal Negative Declarations” are different from the Negative Declarations associated with the California Environmental Quality Act (CEQA). Instead, these FNDs, once adopted by the Governing Board, will serve as official certification to the USEPA that there are no stationary sources or emitting facilities in these categories located within the area designated as non-attainment for ozone within the MDAQMD. There are no emission reductions associated with this action because it does not change any existing rules or regulations.

The District must also certify that the existing Nonattainment New Source Review (NNSR) program meets the requirements for the implementation of the 2015 ozone national ambient air quality standards (NAAQS). The MDAQMD is certifying that the submitted NNSR program, covering the West Mojave Desert 8-Hour nonattainment areas for the 2015 ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors, as amended by the final rule titled *Implementation of the 2015 National Ambient Air Quality Standard for Ozone: State Implementation Plan Requirements* (83 FR 62998, December 6, 2018).

Furthermore, FCAA § 182(a)(3)(B) (42 U.S.C. §7511a) requires ozone nonattainment areas to mandate submittal of emission statement data from certain sources of VOC and NO_x. The 2015 eight-hour ozone standard implementation rule acknowledges that if an area has a previously approved emission statement rule in force for the former 2008 eight-hour, 1997 eight-hour, or 1979 one-hour ozone NAAQS, the existing rule is likely sufficient for meeting the emission statement requirement for the 2015 eight-hour ozone NAAQS. The District adopted Rule 107 – *Certification and Emission Statements* on September 14, 1992 to cover the entire MDAQMD. The nonattainment area for the MDAQMD has not been significantly modified since that time. Additionally, the implementation rule recommends that air districts review the existing rule to ensure adequacy in the form of a written statement to the USEPA.

Staff has developed the *70 ppb O₃ Evaluation* including the RACT SIP Analysis, Federal Negative Declarations, Certification of Nonattainment New Source Review Program, and Emission Statement Certification to satisfy the applicable FCAA requirements.

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

AGENDA ITEM #9

PAGE 3

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the adoption of the *70 ppb O₃ Evaluation* 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 September 9, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations

The following page(s) contain the backup material for Agenda Item: [Conduct a public hearing to consider the adoption of Rule 1157.1 – BARCT Requirements for Boilers and Process Heaters and approval of California Environmental Quality Act \(CEQA\) documentation: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting Rule 1157.1, and directing staff actions. Presenter: Alan De Salvio, Deputy Director – Mojave Desert Operations.](#)

Please scroll down to view the backup material.

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

AGENDA ITEM #12

DATE: September 23, 2019

RECOMMENDATION: Conduct a public hearing to consider the adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters* and approval of California Environmental Quality Act (CEQA) documentation: a. Open public hearing; b. Receive staff report; c. Receive public testimony; d. Close public hearing; e. Make a determination that the CEQA Categorical Exemption applies; f. Waive reading of Resolution; g. Adopt Resolution making appropriate findings, certifying the Notice of Exemption, adopting Rule 1157.1, and directing staff actions.

SUMMARY: Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters* is proposed for adoption to comply with the requirements set forth in H&S Code §40920.6(c)(1) AB 617 2017.

BACKGROUND: In accordance with H&S Code §40920.6(c)(1), the District has adopted an expedited schedule for BARCT implementation at specified sources within District boundaries on 10/22/18. The MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* in accordance with this schedule.

A Notice of Exemption, Categorical Exemption (Class 8; 14 Cal. Code Reg. §15308) will be prepared by the MDAQMD for the adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA* 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 before September 23, 2019.

FINANCIAL DATA: No increase in appropriation is anticipated.

PRESENTER: Alan De Salvio, Deputy Director – Mojave Desert Operations



Draft
Staff Report
Proposed Adoption of Rule 1157.1 – *BARCT Requirements for
Boilers and Process Heaters Outside the FONA*

For adoption on
September 23, 2019

**Mojave Desert
Air Quality
Management District**

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**STAFF REPORT
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FONA*

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List of Acronyms

APCO	Air Pollution Control Officer
ASTM	American Society for Testing and Materials
BACT	Best Available Control Technology
BARCT	Best Available Retrofit Control Technology
CARB	California Air Resources Board
CCAA	California Clean Air Act
CEQA	California Environmental Quality Act
CO	Carbon Monoxide
CTG	Control Technique Guidelines
FCAA	Federal Clean Air Act
FONA	Federal Ozone Nonattainment Area
H&S Code	California Health & Safety Code
HHV	High Heating Value
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MMBtu	Million British Thermal Units
NO _x	Oxides of Nitrogen
O ₂	Oxygen
PPMV	Parts Per Million by Volume
RACT	Reasonably Available Control Technology
SCAQMD	South Coast Air Quality Management District
SEGS	Solar Electric Generating System, Located at Harper Lake
SIP	State Implementation Plan
SO _x	Oxides of Sulfur
USEPA	U.S. Environmental Protection Agency
VOC	Volatile Organic Compounds

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STAFF REPORT

Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*

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

In accordance with H&S Code §40920.6(c)(1), the District has adopted an expedited schedule for BARCT implementation at specified sources within District boundaries on 10/22/18. The MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* in accordance with this schedule.

III. STAFF RECOMMENDATION

Staff recommends that the Governing Board of the Mojave Desert Air Quality Management District (MDAQMD or District) adopt proposed Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*. This action is necessary to satisfy H&S Code §40920.6(c)(1) and the adopted *MDAQMD AB 617 BARCT Implementation Schedule*.

IV. LEGAL REQUIREMENTS CHECKLIST

The findings and analysis as indicated below are required for the procedurally correct to adopt Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*. 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:

- 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 to Rule 1157.1. 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 adoption of Rule 1157.1 is necessary to satisfy H&S Code §40920.6(c)(1).

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.

c. Clarity:

The proposed adoption of Rule 1157.1 is clear in that it is written so that the persons subject to the Rule can easily understand the meaning.

d. Consistency:

The proposed adoption of Rule 1157.1 is in harmony with, and not in conflict with or contradictory to any State law or regulation, Federal law or regulation, or court decisions.

e. Nonduplication:

The proposed adoption of Rules 1157.1 does not impose the same requirements as any existing State or Federal law or regulation because the District is adopting this Rule to require BARCT on major stationary sources of air pollution within the MDAQMD.

f. Reference:

The District has the authority pursuant to H&S Code §40702 to adopt, amend, or repeal rules and regulations.

g. Public Notice & Comment, Public Hearing:

Notice for the public hearing for the proposed adoption of Rule 1157.1 will be published on August 26, 2019. 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. BARCT is a state requirement solely written to satisfy the requirements of AB 617 (2017), a state assembly bill, and thus not required for inclusion in the SIP. Because of this, the MDAQMD is not planning to submit Rule 1157.1 to the SIP at this time, though all of the necessary analyses have been carried out should the District decide to submit Rule 1157.1 to the SIP in the future.

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.

Though the recently-amended District Rule 1157 has imposed RACT and BARCT standards, the approval of AB 617 and adoption of the District’s respective AB 617 BARCT Implementation Schedule necessitated a review of currently-imposed BARCT standards applicable to sources within the District. The results of such a review culminated in the proposed adoption of District Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*.

C. ECONOMIC ANALYSIS

1. General

BARCT is an emission limitation based on the maximum degree of reduction available, taking into account environmental, energy, and economic impacts by each class or category of source (H&S Code §40406). Because the proposed new requirements of Rule 1157.1, only require retrofit by one source, Searles Valley Minerals within the District, the District relies on the cost analysis provided by Searles Valley Minerals, this cost effectiveness analysis is based upon additional specified equipment to SVM operations as follows:

<u>Item Description</u>	<u>Combustion Modifications</u>	<u>Add-on SNCR Retrofit</u>	<u>SCR Retrofit</u>
NOx limit (lbs/MMBtu)	0.20	0.16	0.06
Technology status in this application	Proven	Unproven (due to air preheater plug)	Unproven (due to no similar retrofits)
Effect on ESP	None	Potentially adverse	Potentially adverse
Initial shutdown	Short	Moderate	Very long (90 days)
Ongoing shutdowns	None	Potentially many	Potentially some
Installation cost	Low	Medium	Extremely high
Reheat cost	None	None	None
Incremental cost effectiveness, \$/ton	\$4,600	\$21,729	\$11,619

BARCT, therefore, is defined as a NOx limit of 0.20 lbs/MMBTU due to its feasibility and cost-effectiveness.

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 District analyzed the 3 primary retrofit possibilities for SVM as shown below:

<u>Item</u>	<u>Combustion Modifications</u>	<u>Add-on SNCR Retrofit</u>	<u>SCR Retrofit</u>
Technical Feasibility	Feasible	Not feasible due to preheater plugging	Marginally feasible but eliminated based

			on cost issues
Average cost effectiveness (without extras), \$/ton	\$4,087	\$5,614	\$8,665
Average cost effectiveness (with extras), \$/ton (Extras are ash cost and boiler shutdown costs)	\$4,600	\$16,019	\$10,742
Incremental cost (\$/year)	\$826,064	\$7,804,206	\$14,606,295
Incremental reduction (ton/year)	180	359	1,257
Incremental cost effectiveness (\$/ton)	\$4,600	\$21,729	\$11,619

Therefore, the incremental cost analysis further supports the BARCT requirements set forth by Rule 1157.1.

D. ENVIRONMENTAL ANALYSIS (CEQA)

Through the process described below the appropriate CEQA process for the proposed amendment of Rule 1157.1 was determined.

1. The proposed amendment of Rule 1157.1 meets the CEQA definition of “project”. It is not a “ministerial” action.
2. The proposed adoption of Rule 1157.1 is exempt from CEQA review as it is a regulatory action designed to protect the environment. Proposed Rule 1157.1 enhances the control of CO and NOx emissions caused by boilers and process heaters in the area of the District not already covered by Rule 1157. Because there is no potential that the adoption of Rule 1157.1 might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies. Copies of the documents relating to CEQA can be found in Appendix “D”.

E. SUPPLEMENTAL ENVIRONMENTAL ANALYSIS

1. Potential Environmental Impacts

The adoption of proposed Rule 1157.1 will result in reductions of emissions of regulated pollutants or their precursors through operational changes and stricter emission limitations. The combustion modifications proposed by Searles Valley Minerals to comply with Rule 1157.1 will result in lesser air quality impacts than its current state.

2. Mitigation of Impacts

No increased impacts are expected from the proposed modification.

3. Alternative Methods of Compliance

Analysis of both SNCR and SCR retrofits have been determined to cause increased ammonia emissions and are therefore unsuited for BARCT.

F. PUBLIC REVIEW

See Staff Report Appendix B.

VI. TECHNICAL DISCUSSION

A. SOURCE DESCRIPTION

The following permit units within the District will be affected by the adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*:

Facility Desc	P#	Permit Desc	Fuel
SVMU - Utilities Argus Facility	B000554	BOILER, FOSSIL FUEL FIRED (NO. 26)	Solid
SVMU - Utilities Argus Facility	B000555	BOILER, FOSSIL FUEL FIRED (NO. 25)	Solid
SVM - Trona Plant	M000483	BOILER NO. 22	Gaseous
Ivanpah 1	B010375	BOILER, NATURAL GAS	Gaseous
Ivanpah 2	B010376	BOILER, NATURAL GAS	Gaseous
Ivanpah 3	B010377	BOILER, NATURAL GAS	Gaseous
SVM - West End Plant	B009992	BOILER (NO. 5)	Gaseous
Genesis Solar - Blythe	B011060	AUXILIARY BOILER #1	Gaseous
Genesis Solar - Blythe	B011061	AUXILIARY BOILER #2	Gaseous
NTC - Dir. of Public Works, Community Support	B009279	BOILER, PROPANE (BLDG 273, C AVENUE)	Gaseous
NTC - Dir. of Public Works, Community Support	B009280	BOILER, PROPANE (BLDG 275, FIRST STREET)	Gaseous
NTC - Dir. of Public Works, Community Support	B009281	BOILER, PROPANE (BLDG 226, C AVENUE)	Gaseous
NTC - Dir. of Public Works, Community Support	B009282	BOILER, PROPANE (BLDG 109, LANGFORD LAKE ROAD)	Gaseous
NAWS China Lake	B001074	STEAM BOILER NO. 13, NATURAL GAS FIRED (SALT WELLS BOILER PLANT #4, BLDG 14530)	Gaseous
NAWS China Lake	B001075	STEAM BOILER NO. 14, NATURAL GAS FIRED (SALT WELLS BOILER PLANT #4, BLDG 14530)	Gaseous
Mountain Pass Mine	B011431	LNG WARMER (2) NATURAL GAS-FIRED PROCESS HEATERS	Gaseous
Ivanpah 1	B011544	BOILER, NIGHTTIME PRESERVATION	Gaseous
Ivanpah 2	B011572	BOILER, NIGHTTIME PRESERVATION	Gaseous
Ivanpah 3	B011573	BOILER, NIGHTTIME PRESERVATION	Gaseous
PG&E - Various Locations	B011234	BOILER #1, NATURAL GAS	Gaseous
PG&E - Various Locations	B011235	BOILER #2, NATURAL GAS	Gaseous
PG&E - Various Locations	B011236	BOILER #3, NATURAL GAS	Gaseous
PG&E - Various Locations	B011237	BOILER #4, NATURAL GAS	Gaseous

B. EMISSIONS

The proposed adoption of Rule 1157.1 will further reduce emissions from the above sources in accordance to the established BARCT standards. Specifically, the proposed Rule 1157.1 establishes BARCT as CO limits of 0.027 lbs/MMBTU of heat input, NO_x limits of 0.20 lbs/MMBTU of heat input for all operating conditions other than low carbon fuel conditions, and NO_x limits of 0.24 lbs/MMBTU of heat input under low carbon fuel conditions, for boilers running on solid fuels. The BARCT limits for gaseous and liquid fueled units remain unchanged.

C. CONTROL REQUIREMENTS

The adoption of Rule 1157.1 requires controls sufficient to meet the proposed new limits determined to be BARCT, and will be verified by source testing.

D. PROPOSED RULE SUMMARY

Rule 1157.1 is an entirely new rule intended to fulfill the requirements of H&S Code §40920.6(c)(1) and is applicable to new and existing boilers, steam generators, and process heater units outside of the FONA. It is formatted in standard MDAQMD Rule format including sections containing Purpose, Applicability, Exemptions, Definitions, Requirements, Monitoring and Records, Compliance Procedures and Test Methods, and Violations.

E. SIP HISTORY

1. SIP History.

a. SIP in the San Bernardino County Portion of MDAQMD

There is no equivalent document to Rule 1157.1 currently in the MDAQMD SIP.

b. SIP in the Riverside County (Blythe/Palo Verde Valley) Portion of the MDAQMD

There is no analogous rule to proposed Rule 1157.1 inherited from the SCAQMD in the SIP for the Blythe/Palo Verde Valley portion of the MDAQMD.

2. SIP Analysis.

The District will not request CARB to submit the proposed adoption of Rule 1157.1 to be included in the SIP versions in effect for the entire MDAQMD at this time.

Appendix “A”
Rule 1157.1 – *Boilers and Process Heaters*
Iterated Version

The iterated version is provided so that the changes to an existing rule may be easily found. The manner of differentiating text is as follows:

1. Underlined text identifies new or revised language.
2. ~~Lined out text~~ identifies language which is being deleted.
3. Normal text identifies the current language of the rule which will remain unchanged by the adoption of the proposed amendments.
4. [*Bracketed italicized text*] is explanatory material that is not part of the proposed language. It is removed once the proposed amendments are adopted.

RULE 1157.1
BARCT Requirements for Boilers and Process Heaters Outside
the FONA

(A) General

(1) Purpose:

- (a) To limit Oxides of Nitrogen (NO_x) and Carbon Monoxide (CO) emissions from industrial, institutional, and commercial Boilers, Steam Generators, and Process Heaters through the application of Best Available Retrofit Technology (BARCT).

(2) Applicability:

- (a) This rule applies to new and existing Boilers, Steam Generators, and Process Heaters located outside the Federal Ozone Non-Attainment Area (FONA) with Rated Heat Inputs of greater than or equal to 5 million Btu per hour (MMBtu/hr) which are used in all industrial, institutional, and commercial operations, including permit units used by Independent Power Producer or a Cogeneration Facility.
- (b) This rule does not apply to permit units whose sole purpose is the production of steam for electrical power generating equipment when the permit unit is located at a facility directly regulated by a Public Utilities Commission.

- (3) Compliance with this rule does not exempt a person from complying with any other applicable State, federal or local law, statute, code, ordinance, rule, or regulation.

(B) Definitions

- (1) The definitions contained in District Rule 102 – *Definition of Terms* shall apply unless the term is otherwise defined herein:
- (a) "Annual Heat Input" - The total heat input of fuels, in Btu, burned by a permit unit in a calendar year, as determined from the higher heating value (HHV) and cumulative annual usage of each fuel.
- (b) "Best Available Retrofit Control Technology (BARCT) – An emission limitation that is based on the maximum degree of reduction achievable, taking into account environmental, energy and economic impacts by each class or category of source (Section 40406 of the California Health & Safety Code).

- (c) "Cogeneration Facility" – A facility which produces:
- (i) electric energy; and
 - (ii) steam or forms of useful energy (such as heat) which are used for industrial or commercial heating or cooling purposes.
- (d) "Emissions Control Plan" - A document which outlines how an existing facility will comply with the requirements of this rule. The plan shall contain the following:
- (i) a list of all permit units with their Rated Heat Inputs and estimated Annual Heat Inputs; and
 - (ii) for permit units subject to subsection (C)(3)(a) or (C)(4)(a), for each permit unit listed, the selected method of achieving the applicable standard or standards of subsection (C)(3)(a) or (C)(4)(a); and
 - (iii) for permit units subject to subsection (C)(3)(b) or (C)(4)(b), for each permit unit listed, a selection of one of the four options specified in subsection (C)(3)(b) or (C)(4)(b) to achieve compliance with this rule.
- (e) "Gaseous Fuel" - Natural gas, digester gas, landfill gas, methane, ethane, propane, butane, or any gas stored as a liquid at high pressure such as liquefied petroleum gas.
- (f) "High Annual Heat Input Permit Unit" - A permit unit with an annual heat input greater than or equal to 50,000 million Btu (MMBtu).
- (g) "Independent Power Producer" - A power plant which is not directly regulated by a Public Utilities Commission, which provides power to an electric utility rather than directly to rate-payers, and which is a Qualifying Small Power Production Facility per Public Utility Regulatory Policies Act regulations (18 CFR Ch.1, Subpart B).
- (h) "Liquid Fuel" - Any fuel which is a liquid at standard conditions including but not limited to distillate oils, kerosene and jet fuel. Liquefied Gaseous Fuels are not Liquid Fuels.
- (i) "Low Annual Heat Input Permit Unit" - A permit unit with an annual heat input less than 50,000 million Btu (MMBtu).
- (i) "Low-carbon Fuels" – Reduced carbon and carbon neutral solid fuels such as but not limited to biomass, or blends composed thereof. Coal is not a Low-carbon fuel.
- (j) "NOx Emissions" (NOx) - The sum of any oxides of nitrogen which can be measured in the flue gas.

(k) "Process Heater" - Any combustion equipment fired with any fuel, which transfers heat from combustion gases to water or process streams. Process Heaters do not include any dryers in which the material being dried is in direct contact with the products of combustion, such as: cement or lime kilns, glass melting furnaces, or smelters.

(C) Requirements

(1) The following limits shall apply to all permit units, and represent BARCT standards.

(2) An Owner/Operator of any permit unit(s) subject to subsection (C)(3)(a) below shall have the option of complying with either the ppmv or pounds per million Btu (lbs/MMBtu) NO_x emission limits.

(3) Gaseous and Liquid Fueled Emission Standards:

(a) High Annual Heat Input permit units, shall not emit:

- (i) carbon monoxide in excess of 400 ppmv; and
- (ii) NO_x in excess of 30 ppmv, and/or 0.036 lbs/MMBtu of heat input, when operated on Gaseous Fuel; and
- (iii) NO_x in excess of 40 ppmv, and/or 0.052 lbs/MMBtu of heat input, when operated on Liquid Fuels; and
- (iv) NO_x in excess of the heat-input weighted average of the limits specified in (C)(3)(a)(ii) and (C)(3)(a)(iii), above, when operated on combinations of Gaseous and/or Liquid Fuels.

Sample calculation:

$$Emission\ Limit = \frac{(30\ ppmv * x) + (40ppmv * y)}{x + y}$$

Where:

<u>x</u>	<u>≡</u>	<u>Annual Heat Input from Gaseous Fuel</u>
<u>y</u>	<u>≡</u>	<u>Annual Heat Input from Liquid Fuel</u>

(b) Low Annual Heat Input permit units shall:

- (i) be operated in a manner that maintains stack-gas oxygen (O₂) concentrations at less than or equal to 3.0 percent by volume on a dry basis; or
- (ii) be operated with a stack-gas oxygen trim system set at 3.00±0.15 percent oxygen by volume on a dry basis; or
- (iii) be tuned at least annually in accordance with the procedure described in Section (I), a modification of the tuning procedure described in Section (I) as approved by the APCO, CARB and

- USEPA, or the permit unit manufacturer's specified tune-up procedure; or
- (iv) be operated in compliance with the applicable emission levels specified in subsection (C)(3)(a).

(4) Solid Fueled Emission Standards:

(a) High Annual Heat Input permit units shall not emit:

- (i) carbon monoxide in excess of 0.027 lbs/MMBtu of heat input; and
- (ii) NOx in excess of 0.20 lbs/MMBtu of heat input for all operating conditions other than low carbon fuel conditions; and
- (iii) NOx in excess of 0.24 lbs/MMBtu of heat input under low carbon fuel conditions.
- (iv) These limits shall be averaged over any 30 consecutive day period under all operating conditions other than startup and shutdown periods as defined in the facility permit.
- (v) Boilers 25 and 26 in Trona, California may demonstrate compliance through averaging across both permit units.

(b) Low Annual Heat Input permit units shall:

- (i) be operated in a manner that maintains stack-gas oxygen (O₂) concentration at less than or equal to 3.0 percent by volume on a dry basis; or
- (ii) be operated with a stack-gas oxygen trim system set at 3.00±0.15 percent oxygen by volume on a dry basis; or
- (iii) be tuned at least annually in accordance with the procedure described in Section (I), a modification of the tuning procedure described in Section (I) as approved by the APCO, CARB and USEPA, or the permit unit manufacturer's specified tune-up procedure; or
- (iv) be operated in compliance with the applicable emission levels specified in subsection (C)(4)(a).

(5) General Equipment Requirements:

- (a) Owner/Operators of permit units which simultaneously fire combinations of different fuels, and are subject to the requirements of subsection (C)(3)(a) or (C)(4)(a), shall:
- (i) install mass flow rate meters in each fuel line; or
- (ii) install volumetric flow rate meters in conjunction with temperature and pressure probes in each fuel line; or
- (iii) maintain a fuel log.

- (b) Owner/Operators of permit units which are subject to (C)(3)(b) or (C)(4)(b) and choose to comply with (C)(3)(b)(ii) or (C)(4)(b)(ii), respectively, shall install a stack-gas oxygen trim system.

(D) Exemptions

- (1) During periods of unexpected curtailment of normal Gaseous Fuels, permit units subject to the requirements of subsection (C)(3)(a) or (C)(4)(a) which normally burn only Gaseous Fuel shall comply with a NOx emission limit of either 150 ppmv or 0.215 lbs/MMBtu of heat input when burning Liquid Fuel. (This exemption shall not exceed the period of natural gas curtailment, and specifically includes equipment and emission testing time not exceeding 48 hours per calendar year).
- (2) The provisions of Section (C) of this rule shall not apply to permit units which have no Annual Heat Input (Annual Heat Input equals zero). The Owner/Operator of any permit unit who wishes to claim an exemption pursuant to this subsection shall meet the record keeping requirements of this rule so as to be able to prove the exemption status.
- (3) Units located inside the Federal Ozone Non-Attainment Area (FONA) are exempt from this rule.

(E) Monitoring and Records

(1) Emissions Compliance Testing:

- (a) Frequency: All permit units covered under subsections (C)(3) and (C)(4) shall demonstrate compliance through emission compliance testing not less than once every 12 months (those permit units with a heat input rating of less than 20 MMBtu/hr shall be tested not less than once every 24 months), except that permit units complying with subsection (C)(3)(b)(iii) or (C)(4)(b)(iii) shall be tested not less than once every 12 months, and permit units claiming an exemption pursuant to subsection (D)(1) which burn a secondary fuel for less than 720 cumulative hours in the twelve month consecutive period prior to testing shall not be required to perform compliance testing for that fuel.

(b) Procedures:

- (i) Compliance testing required by this rule shall follow the administrative procedures outlined in the District's Compliance Test Procedural Manual. All emission determinations shall be made as stipulated in the test protocol accepted by the District.
- (ii) Emission determinations shall include, at a minimum, one emission compliance test conducted at 90% of the maximum firing

rate allowed by the District permit or at normal operating conditions.

- (iii) No compliance determination shall be established based on data obtained from compliance testing, including integrated sampling methods, during a start-up period or shut-down period.
- (iv) All ppmv emission limits specified in subsections (C)(3)(a), (C)(4)(a) and (D)(1) are referenced at dry stack-gas conditions and 3.0 percent by volume stack-gas oxygen.
- (v) All lbs/MMBtu NOx emission rates shall be calculated as pounds of nitrogen dioxide per MMBtu of heat input.
- (vi) All emission concentrations and emission rates shall be based on hourly averages unless otherwise specified.

(2) Records and Reporting

- (a) For all permit units subject to this rule, the Owner/Operators shall monitor and record for each permit unit the High Heat Value and cumulative annual usage of each fuel. The cumulative annual usage of each fuel shall be monitored from utility service meters, purchase or tank fill records. A statement of the heat input for the previous calendar year shall be submitted to the District by March 1 each year.
- (b) For permit units exempt from subsection (C)(3)(a) or (C)(4)(a) in accordance with subsection (D)(1), the Owner/Operators shall monitor and record for each permit unit the cumulative annual hours of operation on each Liquid Fuel.
- (c) All data shall be kept current and on site for a minimum of five years, and provided to District or state personnel on request.
- (d) The Owner/Operators of permit units subject to this rule shall submit all required compliance test reports to the District.
- (e) For each permit unit complying with subsection (C)(3)(b)(iii) or (C)(4)(b)(iii), records verifying that the tune-up has been performed for each fuel burned shall be maintained on site for five years. If a different tune-up procedure from that described in Section (I) is used, then a copy of this procedure shall be kept on site for five years. Such records shall be provided on request by the APCO.

(F) Test Methods

- (1) Compliance with the NOx, carbon monoxide and oxygen requirements of Section C shall be determined using the following test methods:
 - (a) Oxides of Nitrogen - EPA Method 7E or ARB Method 100
 - (b) Carbon Monoxide - EPA Method 10 or ARB Method 100

(c) Stack Gas Oxygen - EPA Method 3 or 3A or ARB Method 100 (d) NOx Emission Rate (Heat Input Basis) - EPA Method 19

(2) Higher Heating Value (HHV) determination shall be by one of the following test methods:

(a) ASTM D 240-87 or ASTM D 2382-88 for liquid hydrocarbon fuels; or

(b) ASTM D 1826-88, or ASTM D 1945-81 in conjunction with ASTM D 3588-89 for Gaseous Fuels.

(G) Compliance Schedule

(1) All permit units subject to this rule shall be in full compliance not later than December 31, 2023.

(2) The Owner/Operator of a permit unit which becomes subject to the requirements of subsection (C)(3)(a) or (C)(4)(a) by exceeding the Annual Heat Input thresholds in subsection (B)(1)(i) for a calendar year, or by operating the permit unit so that an exemption pursuant to (D)(2) no longer applies, shall fulfill the following increments of progress:

(a) On or before December 31 of the calendar year immediately following the year that the Annual Heat Input threshold was exceeded or the permit unit commenced operation, submit an Emissions Control Plan containing the information outlined in subsection (B)(1)(d).

(b) No later than three calendar years following the submission of the Emissions Control Plan, demonstrate final compliance with all applicable standards and requirements of the rule.

(3) Failure to perform interim measures as set forth in a submitted Emissions Control Plan shall constitute a violation of this rule.

(H) Severability of Portions of this Rule

If any portion of this rule is found to be invalid or unenforceable, such finding shall have no effect on the validity and enforceability of the remaining portions of the rule, which are severable and shall continue to be in full force and effect.

(I) Tuning Procedure

(1) Nothing in these Tuning Procedures shall be construed to require any act or omission that would result in unsafe conditions or would be in violation of any regulation or requirement established by Factory Mutual, Industrial Risk Insurers, National Fire Prevention Association, the California Department of Industrial

Relations (Occupational Safety and Health Division), the Federal Occupational Safety and Health Administration, or other relevant regulations and requirements.

(2) Tuning Procedure for Forced-Draft Permit units¹

- (a) Operate the permit unit at the firing rate most typical of normal operation. If the permit unit experiences significant load variations, operate it at its average firing rate.
- (b) At this firing rate, record stack gas temperature, oxygen concentration, and CO concentration (for Gaseous Fuels) or smoke-spot number² (for Liquid Fuels), and observe flame conditions after permit unit operation stabilizes at the firing rate selected. If the excess oxygen in the stack gas is at the lower end of the range of typical minimum values,³ and if the CO emissions are low and there is no smoke, the permit unit is probably operating at near optimum efficiency - at this particular firing rate. However, complete the remaining portion of this procedure to determine whether still lower oxygen levels are practical.
- (c) Increase combustion air flow to the furnace until stack gas oxygen levels increase by one to two percent over the level measured in subsection (I)(2)(b). As in (I)(2)(b), record the stack gas temperature, CO concentration (for Gaseous Fuels), or smoke-spot number (for Liquid Fuels), and observe flame conditions for these higher oxygen levels after Boiler operation stabilizes.
- (d) Decrease combustion air flow until the stack gas oxygen concentration is at the level measured in (I)(2)(b). From this level gradually reduce the combustion air flow, in small increments. After each increment, record the stack gas temperature, oxygen concentration, CO concentration (for Gaseous Fuels) and smoke-spot number (for Liquid Fuels). Also, observe the flame and record any changes in its condition.
- (e) Continue to reduce combustion air flow stepwise, until one of these limits is reached:
 - (i) Unacceptable flame conditions - such as flame impingement on furnace walls or burner parts, excessive flame carryover, or flame instability.
 - (ii) Stack gas CO concentrations greater than 400 ppmv.
 - (iii) Smoking at the stack.

¹ This tuning procedure is based on a tune-up procedure developed by KVB, Inc. for the USEPA.

² The smoke-spot number can be determined with ASTM test method D-2156 or with the Bacharach method.

³ Typical minimum oxygen levels for boilers at high firing rates are: For natural gas: 0.5 - 3%; 2. For Liquid Fuels: 2 - 4%

- (iv) Equipment-related limitations - such as low windbox/furnace pressure differential, built in air-flow limits, etc.
- (f) Develop an O2/CO curve (for Gaseous Fuels) or O2/smoke curve (for Liquid Fuels) using the excess oxygen and CO or smoke-spot number data obtained at each combustion air flow setting.
- (g) From the curves prepared in (I)(2)(f), find the stack gas oxygen levels where the CO emissions or smoke-spot number equal the following values:

<u>Fuel</u>	<u>Measurement</u>	<u>Value</u>
<u>Gaseous</u>	<u>CO Emissions</u>	<u>400 ppmv</u>
<u>#1 and #2 oils</u>	<u>smoke-spot number</u>	<u>number 1</u>
<u># 4 Oil</u>	<u>smoke-spot number</u>	<u>number 2</u>
<u># 5 Oil</u>	<u>smoke-spot number</u>	<u>number 3</u>
<u>Other oils</u>	<u>smoke-spot number</u>	<u>number 4</u>

The above conditions are referred to as the CO or smoke thresholds, or as the minimum excess oxygen levels.

Compare this minimum value of excess oxygen to the expected value provided by the combustion permit unit manufacturer. If the minimum level found is substantially higher than the value provided by the combustion permit unit manufacturer, burner adjustments can probably be made to improve fuel and air mix, thereby allowing operations with less air.

- (h) Add 0.5 to 2.0 percent to the minimum excess oxygen level found in (I)(2)(g) and reset burner controls to operate automatically at this higher stack gas oxygen level. This margin above the minimum oxygen level accounts for fuel variations, variations in atmospheric conditions, load changes, and non-repeatability or play in automatic controls.
- (i) If the load of the combustion permit unit varies significantly during normal operation, repeat (I)(2)(a) through (h) for firing rates that represent the upper and lower limits of the range of the load. Because control adjustments at one firing rate may affect conditions at other firing rates, it may not be possible to establish the optimum excess oxygen level at all firing rates. If this is the case, choose the burner control settings that give the best performance over the range of firing rates. If one firing rate predominates, setting should optimize conditions at the rate.

- (j) Verify that the new settings can accommodate the sudden load changes that may occur in daily operation without adverse effects. Do this by increasing and decreasing load rapidly while observing the flame and stack. If any of the conditions in (I)(2)(e) result, reset the combustion controls to provide a slightly higher level of excess oxygen at the affected firing rates. Next, verify these new settings in a similar fashion. Then make sure that the final control settings are recorded at steady-state operating conditions for future reference.
- (k) When the above checks and adjustments have been made, record data and attach combustion analysis to permit unit records. Indicate the name and title of the person performing the tune-up, the date the tune-up was performed, and sign the record.

(3) Equipment Tuning Procedure for Natural Draft Fired Permit units

(a) Preliminary Analysis

(i) CHECK THE OPERATING PRESSURE OR TEMPERATURE. Operate the permit unit at the lowest acceptable pressure or radiation losses. Determine the pressure or temperature that will be used as a basis for comparative combustion analysis before and after tune-up.

(ii) COMBUSTION ANALYSIS. Perform an "as is" combustion analysis (CO₂, O₂, etc.) with a warmed up permit unit at high and low fire, if possible. In addition to data obtained from combustion analysis, also record the following:

- a. Inlet fuel pressure at burner (at high & low fire); and
- b. Draft above draft hood or barometric damper (at high, medium, and low settings); and
- c. Steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the permit unit.
- d. Permit unit rate if meter is available.

(b) Adjustments: while taking combustion readings with a warmed up permit unit operated at the Rated Heat Input, perform checks and adjustments as follows:

(i) Adjust permit unit to fire at rate; record fuel manifold pressure.

(ii) Adjust draft and/or fuel pressure to obtain acceptable, clean combustion at high, medium and low firing rates. The CO value should always be below 400 ppmv at 3% O₂. If CO is high make necessary adjustments.

(iii) Check to ensure permit unit light offs are smooth and safe. A reduced fuel pressure test at both high and low fire should be

- conducted in accordance with the manufacturer's instructions and maintenance manuals.
- (iv) Check and adjust operations of modulation controller. Ensure proper, efficient and clean combustion through the range of firing rates.
 - (v) When above adjustments and corrections have been made, record all data.
- (c) Final Test: Perform a final combustion analysis with a warmed up permit unit at high, medium and low firing rates, whenever possible. In addition to data from combustion analysis, also check and record:
- (i) fuel pressure at burner (at high, medium and low settings); and
 - (ii) draft above draft hood or barometric damper (at high, medium, and low settings); and
 - (iii) steam pressure, water temperature, or process fluid pressure or temperature entering and leaving the permit unit; and
 - (iv) permit unit rate if meter is available.

When the above checks and adjustments have been made, record data and attach combustion analysis to permit unit records. Indicate the name and title of the person performing the tune-up, the date the tune-up was performed, and sign the record.

See SIP Table at <http://www.mdaqmd.ca.gov/>

Appendix “B”
Public Notice Documents

1. Proof of Publication – Daily Press, TBD
2. Proof of Publication – Riverside Press Enterprise, TBD

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Appendix “C”
Public Comments and Responses

None.

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Appendix “D”
California Environmental Quality Act
Documentation

1. Draft Notice of Exemption – San Bernardino County
2. Draft Notice of Exemption – Riverside County

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NOTICE OF EXEMPTION

TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415
FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310



X MDAQMD Senior Executive Analyst

PROJECT TITLE: Adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*

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: In accordance with H&S Code §40920.6(c)(1), the District has adopted an expedited schedule for BARCT implementation within District boundaries on 10/22/18. The MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* as a response to AB 617 requiring the implementation of Best Available Retrofit Technology (BARCT) at specified sources by the earliest feasible date, but in any event not later than December 31, 2023. Rule 1157.1 is proposed for adoption on September 23, 2019.

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 adoption of Rule 1157.1 is exempt from CEQA review as it will not create any adverse impacts on the environment. Proposed Rule 1157.1 enhances the control of CO and NOx emissions caused by boilers and process heaters in the area of the District not already covered by Rule 1157. Because there is no potential that the adoption of Rule 1157.1 might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** September 23, 2019

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 Senior Executive Analyst

PROJECT TITLE: Adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*

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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- Emergency Project (Pub. Res. Code §21080(b)(4); 14 Cal Code Reg. §15269(b))
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LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** September 23, 2019

DATE RECEIVED FOR FILING:

Appendix “E” Bibliography

None.

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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 Senior Executive Analyst

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- 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 adoption of Rule 1157.1 is exempt from CEQA review as it will not create any adverse impacts on the environment. Proposed Rule 1157.1 enhances the control of CO and NOx emissions caused by boilers and process heaters in the area of the District not already covered by Rule 1157. Because there is no potential that the adoption of Rule 1157.1 might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** September 23, 2019

DATE RECEIVED FOR FILING:

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

BRAD POIRIEZ, EXECUTIVE DIRECTOR

14306 Park Avenue, Victorville, CA 92392-2310 • 760.245.1661 • Fax 760.245.2022 • www.MDAQMD.ca.gov • @MDAQMD

NOTICE OF EXEMPTION



TO: County Clerk
San Bernardino County
385 N. Arrowhead, 2nd Floor
San Bernardino, CA 92415
FROM: Mojave Desert
Air Quality Management District
14306 Park Ave
Victorville, CA 92392-2310

X MDAQMD Senior Executive Analyst

PROJECT TITLE: Adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters*

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: In accordance with H&S Code §40920.6(c)(1), the District has adopted an expedited schedule for BARCT implementation within District boundaries on 10/22/18. The MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* as a response to AB 617 requiring the implementation of Best Available Retrofit Technology (BARCT) at specified sources by the earliest feasible date, but in any event not later than December 31, 2023. Rule 1157.1 is proposed for adoption on September 23, 2019.

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 adoption of Rule 1157.1 is exempt from CEQA review as it will not create any adverse impacts on the environment. Proposed Rule 1157.1 enhances the control of CO and NOx emissions caused by boilers and process heaters in the area of the District not already covered by Rule 1157. Because there is no potential that the adoption of Rule 1157.1 might cause the release of additional air contaminants or create any adverse environmental impacts, a Class 8 categorical exemption (14 Cal. Code Reg. §15308) applies.

LEAD AGENCY CONTACT PERSON: Brad Poiriez **PHONE:** (760) 245-1661

SIGNATURE: _____ **TITLE:** Executive Director **DATE:** September 23, 2019

DATE RECEIVED FOR FILING:

MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT

BRAD POIRIEZ, EXECUTIVE DIRECTOR

14306 Park Avenue, Victorville, CA 92392-2310 • 760.245.1661 • Fax 760.245.2022 • www.MDAQMD.ca.gov • @MDAQMD

RESOLUTION _____

A RESOLUTION OF THE GOVERNING BOARD OF THE MOJAVE DESERT AIR QUALITY MANAGEMENT DISTRICT MAKING FINDINGS, CERTIFYING THE NOTICE OF EXEMPTION, ADOPTING RULE 1157.1 – *BARCT REQUIREMENTS FOR BOILERS AND PROCESS HEATERS OUTSIDE THE FONA* AND DIRECTING STAFF ACTIONS.

On September 23, 2019, on motion by Member _____, seconded by Member _____, and carried, the following resolution is adopted:

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, in accordance with H&S Code §40920.6(c)(1), the District has adopted an expedited schedule for BARCT implementation at specific sources within District boundaries on 10/22/18; and

WHEREAS, the MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* in accordance with this schedule; and

WHEREAS, the proposed adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*, are necessary to satisfy H&S Code §40920.6(c)(1) and the adopted *MDAQMD AB 617 BARCT Implementation Schedule*; and

WHEREAS, the MDAQMD has the authority pursuant to H&S Code §40702 to adopt rules and regulations; and

WHEREAS, the proposed adoption of Rule 1157.1 is clear in that the meaning can be easily understood by the persons impacted by the rule; and

WHEREAS, the proposed adoption of Rule 1157.1 is in harmony with, and not in conflict with or contradictory to any State law or regulation, Federal law or regulation, or court decisions; and

WHEREAS, the proposed adoption of Rules 1157.1 does not impose the same requirements as any existing State or Federal law or regulation because the District is adopting this Rule to require BARCT on major stationary sources of air pollution within the MDAQMD; and

WHEREAS, a public hearing has been properly noticed and conducted, pursuant to H&S Code §40725, concerning the proposed adoption of Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*; and

WHEREAS, a Notice of Exemption, a Categorical Exemption (Class 8, 14 CCR §15308) for the

RESOLUTION _____

1 NOES: MEMBER:

2 ABSENT: MEMBER:

3 ABSTAIN: MEMBER:

4

5 STATE OF CALIFORNIA)

6 COUNTY OF SAN BERNARDINO)

7

SS:

8 I, Deanna Hernandez, Senior Executive Analyst of the Governing Board of the Mojave Desert Air
9 Quality Management District, hereby certify the foregoing to be a full, true and correct copy of the record
10 of the action as the same appears in the Official Minutes of said Governing Board at its meeting of
11 September 23, 2019.

11 _____,

12 Senior Executive Analyst
13 Mojave Desert Air Quality Management District

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Adoption of
Rule 1157.1 – *BARCT Requirements for Boilers and
Process Heaters Outside the FONA*

Alan De Salvio, Kevin Hendrawan,
September 23, 2019

Rules History

- * In accordance with H&S Code §40920.6(c)(1), the District adopted *AB 617 BARCT Implementation Schedule* for BARCT implementation at specified sources within District boundaries on 10/22/18. The MDAQMD has developed Rule 1157.1 - *BARCT Requirements for Boilers and Process Heaters Outside the FONA* in accordance with this schedule.

Proposed Rule Actions

- * The MDAQMD is proposing to adopt Rule 1157.1 to satisfy H&S Code §40920.6(c)(1) and the adopted MDAQMD AB 617 BARCT Implementation Schedule.

Rule 1157.1 Details

- * Satisfies Health & Safety Code (H&S Code) requirements
- * Enforces BARCT standards on units outside the FONAs, in particular large Boilers in Searles Valley Minerals
- * BARCT determined by environmental, energy, and economic analysis
- * Recommended by TAC for adoption

New and Existing Limits

- * Rule 1157.1 adds new CO limits of 0.027 lbs/MMBtu of heat input, NO_x limits of 0.20 lbs/MMBtu of heat input for non-low carbon fuel conditions, and NO_x limits of 0.24 lbs/MMBtu of heat input for low carbon fuel conditions in Solid-fueled High Annual Heat Input permit units.
- * For Gaseous and Liquid Fueled permit units, Rule 1157.1 adopts already-existing BARCT limits found in District Rule 1157.

Sources Impacted by 1157.1

Facility Desc	P#	Permit Desc	Fuel
SVMU - Utilities Argus Facility	B000554	BOILER, FOSSIL FUEL FIRED (NO. 26)	Solid
SVMU - Utilities Argus Facility	B000555	BOILER, FOSSIL FUEL FIRED (NO. 25)	Solid
SVM - Trona Plant	M000483	BOILER NO. 22	Gaseous
Ivanpah 1	B010375	BOILER, NATURAL GAS	Gaseous
Ivanpah 2	B010376	BOILER, NATURAL GAS	Gaseous
Ivanpah 3	B010377	BOILER, NATURAL GAS	Gaseous
SVM - West End Plant	B009992	BOILER (NO. 5)	Gaseous
Genesis Solar - Blythe	B011060	AUXILIARY BOILER #1	Gaseous
Genesis Solar - Blythe	B011061	AUXILIARY BOILER #2	Gaseous
NTC - Dir. of Public Works, Community Support	B009279	BOILER, PROPANE (BLDG 273, C AVENUE)	Gaseous
NTC - Dir. of Public Works, Community Support	B009280	BOILER, PROPANE (BLDG 275, FIRST STREET)	Gaseous
NTC - Dir. of Public Works, Community Support	B009281	BOILER, PROPANE (BLDG 226, C AVENUE)	Gaseous
NTC - Dir. of Public Works, Community Support	B009282	BOILER, PROPANE (BLDG 109, LANGFORD LAKE ROAD)	Gaseous
NAWS China Lake	B001074	STEAM BOILER NO. 13, NATURAL GAS FIRED (SALT WELLS BOILER PLANT #4, BLDG 14530)	Gaseous
NAWS China Lake	B001075	STEAM BOILER NO. 14, NATURAL GAS FIRED (SALT WELLS BOILER PLANT #4, BLDG 14530)	Gaseous
Mountain Pass Mine	B011431	LNG WARMER (2) NATURAL GAS-FIRED PROCESS HEATERS	Gaseous
Ivanpah 1	B011544	BOILER, NIGHTTIME PRESERVATION	Gaseous
Ivanpah 2	B011572	BOILER, NIGHTTIME PRESERVATION	Gaseous
Ivanpah 3	B011573	BOILER, NIGHTTIME PRESERVATION	Gaseous
PG&E - Various Locations	B011234	BOILER #1, NATURAL GAS	Gaseous
PG&E - Various Locations	B011235	BOILER #2, NATURAL GAS	Gaseous
PG&E - Various Locations	B011236	BOILER #3, NATURAL GAS	Gaseous
PG&E - Various Locations	B011237	BOILER #4, NATURAL GAS	Gaseous

Sources Impacted by 1157.1, cont.

- * 7 Boilers are gaseous-fired “low use” and will only be required to perform an annual tune-up
- * 17 Boilers/Heaters under 16 permits are/could be “high use”:
 - * 4 under 3 permits are gaseous-fired, rated less than 20 MMBtu/hr., and expected to be actual “low use”
 - * 6 under 6 permits are gaseous-fired, rated at least 20 MMBtu/hr., and expected to be actual “low use”

Sources Impacted by 1157.1, cont.

- * 4 large boilers under 4 permits are gaseous-fired, comply with the proposed limits, and are already required to perform an annual source test
- * One large gaseous-fired Boiler will be required to modify to comply with proposed NO_x and CO limits (and be source tested annually)
- * Two large non-gaseous-fired Boilers will be required to modify to comply with the proposed NO_x limit

Sources Impacted by 1157.1, cont.

- * These sources were contacted during the development of Rule 1157.1.

Proposed Action

- * Staff recommends that the Governing Board of the MDAQMD adopt Rule 1157.1 – *BARCT Requirements for Boilers and Process Heaters Outside the FONA*
- * Questions?