



San Diego County Air Pollution Control District

It Has Used Vehicle Registration Fees to Subsidize Its
Permitting Process, Reducing the Amount of Funds
Available to Address Air Pollution

July 2020

REPORT 2019-127





CALIFORNIA STATE AUDITOR

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July 16, 2020
2019-127

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of the San Diego Air Pollution Control District (San Diego Air District). Our assessment concludes that the San Diego Air District has not charged sufficient fees for the permits it issues to operators of stationary sources of pollution, such as gas stations and factories. In fiscal year 2018–19, the district collected \$8.7 million in permit fees, but the total cost of the permitting program was \$12.5 million. Instead of raising its permit fees to cover its actual costs, the San Diego Air District used vehicle registration fees to subsidize some of the costs of its permitting program. Although state law allows the San Diego Air District broad discretion over the use of the vehicle registration fees it receives, using these funds that could otherwise be used to address emissions from mobile sources to subsidize its permitting program does not advance the district’s mission of improving San Diego County’s (county) air quality. The district’s choice is problematic because meeting federal air quality standards requires the San Diego region to dramatically reduce emissions of ozone-causing pollutants, the majority of which are caused by mobile sources—such as cars, trucks, and buses.

In addition, the district’s governing board has failed to exercise sufficient oversight of its advisory committee, a nine-member group that provides the board with recommendations on decisions impacting the county’s air quality—including regulatory changes. For many years, the district’s governing board has failed to ensure that seats on the advisory committee representing environmental and small business interests were filled. Further, the advisory committee did not have a quorum necessary to lawfully take action on the agenda items during any of the 13 meetings it held from fiscal year 2016–17 through December 2019. Finally, the San Diego Air District is responsible for investigating public complaints regarding air quality, but when we reviewed the investigation reports for a selection of 10 complaints, we determined that the district failed to investigate one of the 10 complaints, and it did not investigate a second complaint within the time frames established in its policy. Because complaints are a valuable source of information regarding potential noncompliance, it is important that the district demonstrate to the public that it prioritizes collecting, tracking, and addressing complaints promptly and accurately.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

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SUMMARY

The San Diego County Air Pollution Control District (San Diego Air District) exists to protect the residents and the environment of San Diego County (county) from the harmful effects of air pollution. The district is responsible for regulating stationary sources of air pollution, such as factories, power plants, and gasoline stations, and monitoring air quality throughout the county. It currently operates as a county department and is governed by the San Diego County Air Pollution Control Board (district board), which consists of the county's five-member board of supervisors. The district, however, is not supported by the county's general fund; instead, the majority of its funding comes from other revenue sources, including vehicle registration fees, federal and state grants, and the permitting fees that it collects from the operators of stationary sources of pollution. We conducted an audit to review the district's financial transparency and its interaction with stakeholders and the public regarding decisions that affect regional air quality. This report draws the following conclusions:

The San Diego Air District Uses Vehicle Registration Fees to Subsidize Its Permitting Program

Although state law allows the district broad discretion over the use of the vehicle registration fees it receives, its decision to use these funds to subsidize the cost of its permitting program for stationary sources of air pollution instead of raising the permit fees to cover its actual costs does not advance the district's mission of improving county air quality. In fiscal year 2018–19, the district collected \$8.7 million in permit fees, but we calculated that the total cost of the permitting program was \$12.5 million. By raising permit fees to the level necessary to fully pay for the permitting process and using more of the vehicle registration fees it receives to address emissions from mobile sources, the San Diego Air District could advance the State's efforts to meet federal air quality standards in the San Diego region and its own mission of improving air quality. In fact, for the county to meet federal air quality standards, the California Air Resources Board estimates that it must reduce emissions of ozone-causing pollutants by 26 tons per day. However, in 2019 the county's stationary sources produced only 4 tons per day of such pollutants, while mobile sources, such as cars, trucks, and buses, contributed 82 tons daily.

Page 25**The San Diego Air District and the District Board Have Not Taken Adequate Steps to Foster Public Engagement**

The San Diego Air District does not take advantage of some methods used by other air districts to encourage public participation, which can be divided into two categories: public outreach to inform the public, and public engagement to obtain input from the public. Other districts use plans to guide their public engagement efforts and social media to publicize opportunities for public engagement and encourage participation in workshops. Although the San Diego Air District holds workshops and conducts surveys to get input from the public, other aspects of its public participation efforts, such as social media, are limited to public outreach. The district board has also failed to exercise sufficient oversight of its advisory committee. The advisory committee did not have a legally required quorum—a majority of members present—to take action on agenda items at any of the 13 meetings it held from fiscal year 2016–17 through December 2019. In addition, the district board failed to ensure that the seats on the advisory committee that are intended to include stakeholders from business and environmental interests were filled: one of the seats for members nominated by environmental organizations has not been filled in almost 30 years, the other has been vacant for more than 24 years, and the seat for a representative of small businesses has been vacant for more than 12 years. Finally, the district board is not using its public meetings to deliberate on decisions regarding improving regional air quality, despite the fact that doing so would likely increase transparency and demonstrate its commitment to include the public in its decision-making process.

Page 35**The San Diego Air District Cannot Provide Accurate Complaint Information and Has Not Ensured That All Complaints Are Properly Addressed**

Although the San Diego Air District investigates public complaints regarding air quality, it cannot currently provide the public with accurate and thorough information about how it addresses those complaints because of inaccurate data in its complaint database. Because of our concerns with the complaint data, we reviewed the investigation reports for a selection of 10 complaints and determined that the district failed to investigate one of the 10 complaints, an oversight that might have been avoided if supervisors were required to review investigation reports within a specific time frame after complaints are received, and it did not investigate a second complaint within the time frame established in its policy.

Summary of Recommendations

To ensure that the permit fees it charges are sufficient to pay for its permitting program, the San Diego Air District should increase fees until its revenue from permit fees is equal to the full cost of the permitting program. Further, to help reduce ozone-causing pollutants in the county, the San Diego Air District should use its vehicle registration fees to address emissions from mobile sources.

To ensure that it encourages public participation in the creation of its regulatory and permitting policies, the San Diego Air District should create and implement a plan to guide its public participation efforts. Further, the district board should actively seek nominations for the vacant seats on its advisory committee. The district board should also publicly deliberate on decisions regarding regional air quality to increase transparency and demonstrate its commitment to include the public in its decision-making process.

To ensure that it provides accurate complaint information and is addressing all complaints properly, the San Diego Air District should do the following:

- Validate the information entered in its complaint database and review that the data are accurate and logical.
- Establish time frames for its supervisors to review complaint investigation reports and verify that investigators have responded to complaints in an appropriate and timely manner.

Agency Comments

The San Diego Air District generally agreed with our recommendations and stated that it is initiating actions to implement these recommendations. However, it disagreed with our conclusion that its advisory committee failed to comply with state public meeting requirements.

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INTRODUCTION

Background

To safeguard air quality across California and protect public health and welfare, state law gives air pollution control districts and air quality management districts (local air districts) primary responsibility to regulate the air pollution emitted by stationary sources, including manufacturing and industrial facilities, power plants, and gasoline stations. Created by the San Diego County Board of Supervisors in 1955, the San Diego County Air Pollution Control District (San Diego Air District) is one of 35 local air districts in the State. Although the San Diego Air District has primary responsibility for regulating stationary sources of air pollution, its mission is much broader: to “improve air quality to protect public health and the environment.” Its duties include issuing and renewing permits for stationary sources of air pollution, administering program funds, and monitoring air quality throughout San Diego County (county), which includes 18 incorporated cities and more than three million people. The San Diego Air District also investigates air pollution complaints from the public.

The San Diego Air District currently operates as a department of the county. The San Diego County Air Pollution Control Board (district board) consists of the county’s five-member board of supervisors and is responsible for holding public hearings in specific circumstances, appointing the air pollution control officer who manages the district, and adopting rules and regulations. The district board also created a nine-member advisory committee to provide it with recommendations on matters relating to the district’s annual budgets, permit fees, annual progress reports, and regulatory changes. As we discuss later, recent changes to state law will significantly affect the governance of the San Diego Air District and impose new requirements beginning in 2021.

The Federal Government Establishes Air Quality Standards

The U.S. Environmental Protection Agency (EPA) establishes air quality standards for six principal air pollutants: ozone; carbon monoxide; sulfur dioxide; nitrogen dioxide; lead; and particle pollution, such as dust and smoke. Under state law, local air districts have primary responsibility for controlling air pollution caused by nonvehicular sources, including stationary sources, while the California Air Resources Board (CARB) maintains responsibility for adopting standards to control air pollution caused by motor vehicles and consumer products, and has primary responsibility for the State’s compliance with the EPA’s air quality standards. Federal law requires each state to monitor and make data available on air quality and to submit a State Implementation Plan (state plan) to the EPA specifying the manner in which that state will achieve and maintain air quality standards. Each state plan must include certain elements, including a system to monitor and analyze data on air quality and setting state emissions levels. In California, CARB is responsible for developing the state plan and for coordinating the activities of local air districts to ensure compliance with federal law.

Although states generally are not assessed financial penalties when they do not meet federal air quality standards, federal law does allow the EPA to impose sanctions under certain conditions. Sanctions may include denying federal transportation projects, withholding certain grant funding, or imposing federal plans for areas in limited circumstances. The EPA may impose sanctions if states do not submit plans to meet air quality standards in particular regions or if they fail to make good faith efforts to implement plans. Under certain conditions, the EPA may also promulgate a federal implementation plan when it disapproves a plan submission completely or in part.

The San Diego Air District Has Not Met Federal Ozone Standards

As Figure 1 shows, regions within several of the State's local air districts—including the San Diego Air District—are not meeting federal ozone standards. According to the EPA, ground-level ozone is a gas that can harm the respiratory system, causing—among other things—airway inflammation, coughing, and worsening of asthma.¹ It can also reduce lung function and has been linked to premature death from respiratory causes. To comply with 2015 EPA ozone standards, certain eight-hour measurements of ozone must not exceed 70 parts per billion. However, the level of ozone for the San Diego region from 2017 through 2019 was 82 parts per billion. In March 2020, an EPA report listed ozone as the only federal air quality standard not being met in the San Diego region.

Selected Elements of San Diego Air District's 2016 Regional Plan

- An inventory of emissions of air pollutants in the county organized by their sources.
- A summary of measures necessary to meet ozone standards.
- An analysis of reasonably available emissions control measures to ensure that they are being implemented as expeditiously as possible.
- A demonstration of its progress toward meeting ozone standards.

Source: San Diego Air District's 2016 regional plan.

California law requires local air districts that are not meeting certain state air quality standards to develop a regional attainment plan (regional plan), with CARB collaborating with the air districts and providing them with technical assistance upon request. The San Diego Air District's 2016 regional plan—its most recent plan—includes the items listed in the text box. This plan also stated that the district expected that the ongoing implementation of existing regulations would provide the additional reductions necessary to meet ozone standards.

¹ Ground-level ozone is not emitted directly into the air; rather, it is created by the chemical reactions of certain emissions in the presence of heat and sunlight. The EPA requires specified areas not meeting ozone air quality standards to address emissions of both volatile organic compounds and oxides of nitrogen, which are precursors to ozone formation. However, the San Diego Air District's 2016 regional plan anticipates that controlling oxides of nitrogen will become an increasingly effective strategy for lowering regional ozone concentrations. As a result, oxides of nitrogen are a main focus of the region's control measures. For this reason, throughout this report, we refer to oxides of nitrogen as *ozone-causing emissions*.

Figure 1
California's 35 Local Air Districts Are Not All Meeting Federal Ozone Standards



Source: CARB.

Note: Some districts show more than one attainment level because of multiple air basins within their jurisdictions.

As a result of the San Diego region's inability to meet ozone standards, the chief of CARB's Air Quality Planning Branch stated that CARB intends to include a request in the state plan to reclassify the region's ozone nonattainment status from *moderate* to *severe*, as Figure 2 shows. When the EPA reclassifies a region that is not meeting ozone standards, federal law requires the state to submit a revised state plan for that area. The revised plan must include the elements described in the text box. In areas with *serious* or *severe* ozone classifications, the thresholds at which federal law requires facilities to have a permit for ozone-causing emissions (Title V permit)—which apply to major stationary sources of pollution, such as power plants and large manufacturing operations—are lower. These lower thresholds effectively increase the number of facilities that require those permits. For instance, if a major stationary source of air pollution in an area with *marginal* or *moderate* ozone classification emits less than 100 tons of ozone-causing pollution per year, it may operate without a Title V permit. However, sources in areas with a *serious* classification for ozone require Title V permits if they emit 50 tons or more per year, while sources in areas with a *severe* classification require Title V permits if they emit 25 tons or more per year.

Requirements in Certain Areas With Revised EPA Nonattainment Classification for Ozone

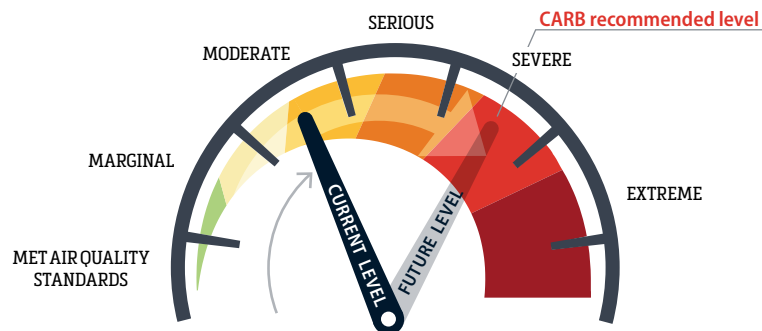
In certain areas classified as serious, the revised plans must include the following:

- Enhanced monitoring.
- A demonstration of progress toward meeting certain emissions standards.
- A clean-fuel vehicle program and transportation controls.
- Stricter requirements for emissions reductions.

In areas classified as severe, the revised state plans must identify and adopt specific enforceable transportation control strategies, as well as including the elements listed above.

Source: Federal law.

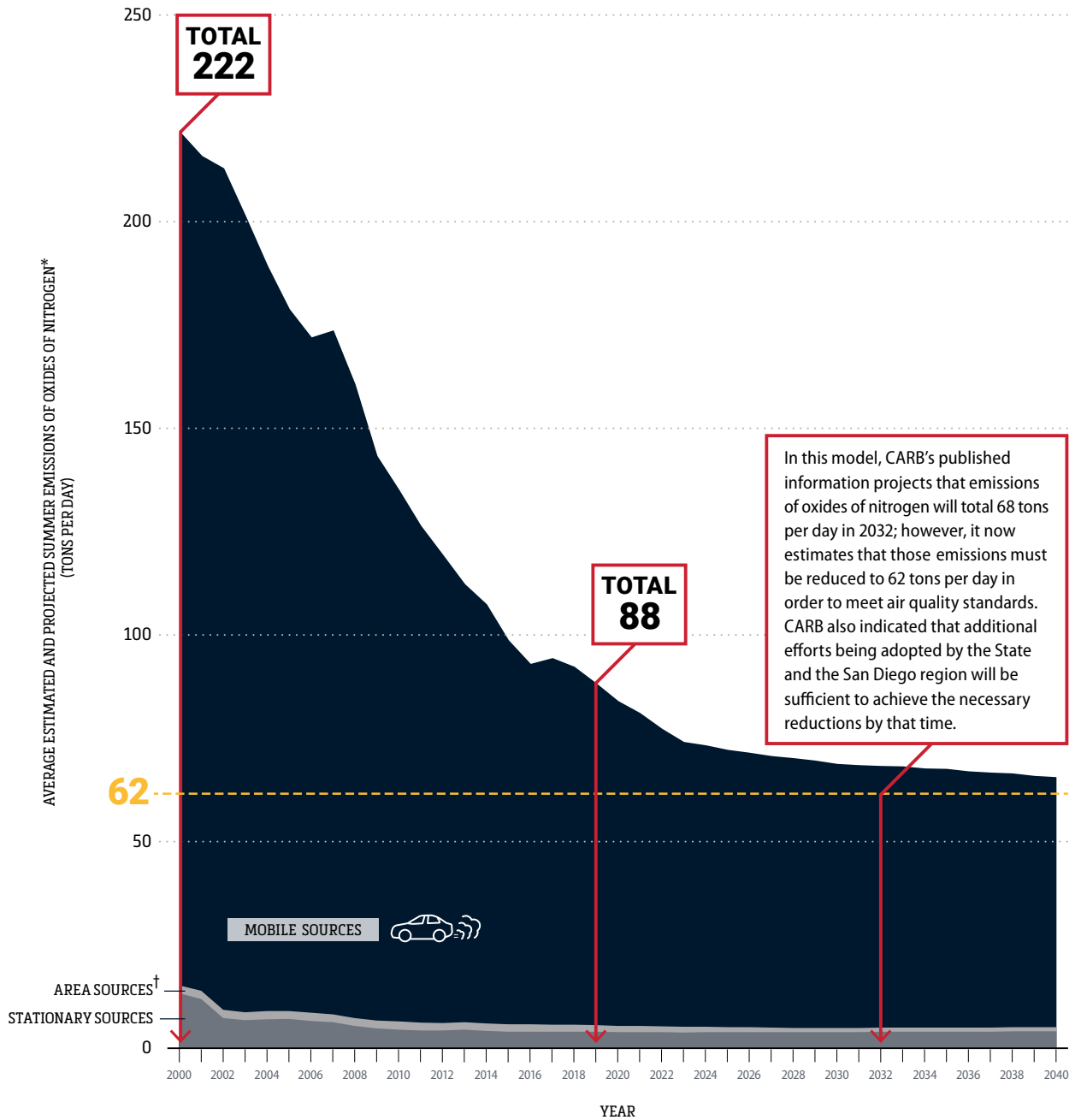
Figure 2
CARB Will Recommend the San Diego Region's Federal Ozone Attainment Status Be Downgraded From Moderate to Severe



Source: Federal law, EPA 2015 ozone attainment status, and interviews with CARB staff.

As a result of the San Diego region's reclassification from a *moderate* area to a *severe* area, the San Diego Air District will have to require permits from additional stationary sources as described above. As Figure 3 shows, CARB reported that from 2000 through

Figure 3
Estimated Ozone-Causing Emissions in San Diego From Mobile, Stationary, and Area Sources Decreased Significantly From 2000 Through 2019



Source: CARB California Emissions Projection Analysis Model emissions inventory 2019.

Note: In addition to these sources, CARB estimates natural sources—such as wildfires—produced almost 3 tons of oxides of nitrogen in 2017 and will produce almost 4 tons annually in the future. Oxides of nitrogen transform into ozone when they react with sunlight and other gases.

* CARB uses summer estimates for ozone planning because they reflect the conditions when higher ozone levels occur in the Southern California region.

† Area sources include residential fuel combustion and outdoor burning.

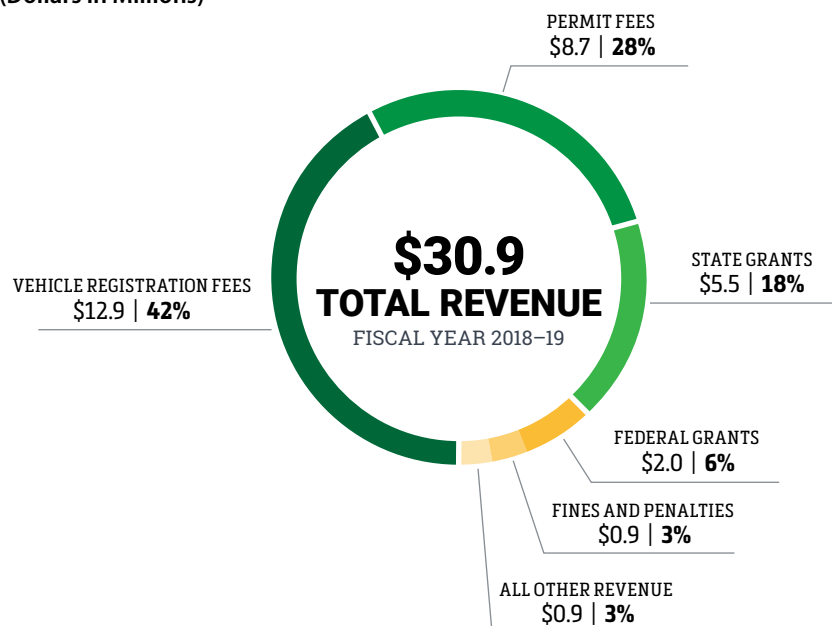
2019, ozone-causing emissions in the San Diego region decreased from an annual average of 222 tons to 88 tons per day. Nevertheless, to meet the federal 2015 ozone standards, CARB estimated that the San Diego region must reduce its ozone-causing emissions to 62 tons per day—a reduction of 26 tons per day from current levels. CARB estimated that the San Diego region will meet this goal by 2032 by committing to new emissions reductions. According to CARB’s chief of air quality planning, the San Diego Air District is preparing a revision to the state plan, and CARB expects to evaluate this revision following its consideration by the district board. The district expects this will occur in September 2020.

The San Diego Air District Receives Funding From Several Sources

Although the San Diego Air District currently operates as a department within the county government, it is not supported by the county’s general fund. Rather, the majority of its funding comes from vehicle registration fees, state and federal grants, and permitting fees, as Figure 4 shows. The county includes the San Diego Air District’s financial activity as a part of its annual countywide budget and financial reports. However, these county documents provide only high-level summaries of the district’s major expenditures and revenue. We present more detailed information that we obtained from the district regarding its budgeted expenditures and revenue in Appendix B.

Figure 4

In Fiscal Year 2018–19, the San Diego Air District’s Three Largest Sources of Funding Were Vehicle Registration Fees, Permit Fees, and State and Federal Grants (Dollars in Millions)



Source: Analysis of San Diego Air District’s financial data, fiscal year 2018–19.

Vehicle Registration Fees

In 1990 the Legislature authorized certain local air districts, including the San Diego Air District, to receive \$2 in fees collected per vehicle by the Department of Motor Vehicles from owners of vehicles registered in those districts. In that same year, the San Diego Air District's board approved a \$2 fee for vehicles registered in the county. In 2004 the Legislature amended state law to allow specific local air districts to collect up to \$6 in fees for each vehicle registered in their districts, a portion of which was required to be used for specific purposes. In 2009 the San Diego Air District's board authorized a fee increase from \$2 to \$4 for each vehicle registered in the county. In fiscal year 2018–19, the district received \$12.9 million in vehicle registration fee revenue.

The Legislature originally intended that local air districts generally use vehicle registration fees for programs and activities to reduce pollution from motor vehicles. However, in 2015 it amended state law to give most local air districts—including the San Diego Air District—broader discretion to use these vehicle registration fees to meet or maintain state or federal air quality standards. The amended law does not include a clear requirement that districts use the vehicle registration fees to reduce mobile emissions from vehicles (mobile emissions). In addition, state law specifies that the local air districts may use up to 6.25 percent of the vehicle registration fees for administrative costs.

Grants

From fiscal years 2016–17 through 2018–19, the San Diego Air District collected a total of \$22.8 million in grant funds, and it is expected to collect another \$30.4 million in fiscal year 2019–20, for a total of \$53.2 million. These grants come from CARB and federal agencies, such as the EPA and U.S. Department of Homeland Security (Homeland Security). During fiscal years 2016–17 through 2018–19, the district distributed roughly \$14.4 million in grants, and it expects to distribute another \$29.2 million in fiscal year 2019–20, for a total of \$43.6 million. The district directs incentive grant funds to businesses and public agencies for projects that reduce air pollution. For instance, CARB's Carl Moyer grant program provides funding to be granted to private businesses, nonprofit organizations, and public agencies for certain projects that reduce air pollution emissions from sources such as vehicles, locomotives, and agricultural equipment. The San Diego Air District used some of the funds it received through this program to fund a portion of the costs of replacing a number of excavators and tractors with new equipment with emissions lower than the standards applicable to the equipment being replaced. The San Diego Air District also received federal grants to monitor air quality in the region. For example, during the four-year period we reviewed, it received an average of \$659,000 annually from Homeland Security to monitor air quality and provide early warning in the event of a bioterrorist attack.

The San Diego Air District also participates in the Community Air Protection Program (community air program). Created by CARB in response to a 2017 state law, the community air program aims to reduce emissions and improve public health in select disadvantaged areas of the State that experience high exposure to toxic air contaminants, among other goals. To achieve this goal, the program requires certain air districts to deploy air monitoring systems in these communities. In May 2018, CARB awarded the San Diego Air District \$18.9 million to reduce emissions and improve public health in selected neighborhoods—which the district refers to collectively as the *portside community* because of its proximity to the Port of San Diego—where diesel particulate matter air pollution is a major concern. Under the law, the district must also perform outreach to this community and involve its residents in making air quality-related decisions.

Permits

State law authorizes local air districts to establish, by regulation, a permitting system to require operators of certain stationary sources of air pollution to obtain permits. These stationary sources include machines, equipment, or other devices that emit air contaminants. Local districts may also establish a schedule of annual fees charged to those operators that covers the cost of regulating programs related to the permitting system that are not otherwise funded. Under the San Diego Air District's permitting program, an owner must submit an application to the district to construct or operate each piece of equipment of a type identified in county regulations. If that application is complete and the district determines that the proposed equipment is likely to meet district regulations, the San Diego Air District will issue what we refer to, for the purposes of this report, as a *temporary permit*. It subsequently issues a final permit to operate (operating permit) if the equipment passes an on-site inspection. County regulations further require the owner to renew the permit annually.

State law specific to the San Diego Air District generally authorizes it to create specific permitting fees for at least 120 types of equipment and process categories—including equipment used in cement manufacturing, asphalt operations, and food processing. Because the San Diego Air District also regulates the renovation and demolition of certain properties that contain asbestos, it has also established fees for these tasks. The district submits its permit fee calculations to the county for review, which the district board may adopt by district rules. For fiscal year 2018–19, fees for initial permits for stationary sources of air pollution ranged from roughly \$280 for types of portable tubs of roofing tar to more than \$4,800 for equipment used for applying surface coatings, such as

spraying paint. The district requires holders of operating permits to renew them annually, which involves payment of a renewal fee. For instance, the annual renewal fees for the equipment described above were \$163 and \$623, respectively.

State law limits the San Diego Air District's permit fees to the actual costs of its permitting program in the prior fiscal year, adjusted for the change in the annual California consumer price index. In addition, for a district with an annual budget exceeding \$1 million, state law also generally prevents the district from increasing the fees it charges for certain individual permits by more than 15 percent per calendar year. Further, the San Diego Air District may not increase existing fees in the aggregate by more than 15 percent in any fiscal year. For fiscal years 2016–17 through 2018–19, the San Diego Air District authorized nearly 200 new permits annually and renewed an average of 7,100 annually. In fiscal year 2018–19, it collected \$8.7 million in permit fee revenue.

Recent Amendments to State Law Will Restructure the San Diego Air District's Governing Board and Impose New Reporting Requirements

To make the San Diego Air District more representative and responsive to the diverse needs of the county's residents and businesses, the Legislature amended state law in 2019 to restructure the district board. As Figure 5 shows, as of March 2021, the district board will no longer consist of the five members of the county board of supervisors. Rather, it will expand to 11 members and include county, city, and public representatives. The changes in law also impose new requirements on the San Diego Air District that will increase the transparency of its operations, as the text box outlines. These include a requirement that it create and maintain a website on which it posts, among other things, district program information.

Because the San Diego Air District will not be governed by the county board of supervisors, it will no longer function as a county department and will have to either negotiate with the county to continue receiving the administrative services that it currently pays the county to provide or find other ways to obtain these services. These essential services include information technology, legal counsel, and human resources. The San Diego Air District's legal counsel confirmed that the district will have to either contract with the county to obtain these services, secure them from independent contractors, or hire additional staff and administer these services internally.

Selected 2019 Statutory Changes to Increase the San Diego Air District's Transparency and Public Engagement

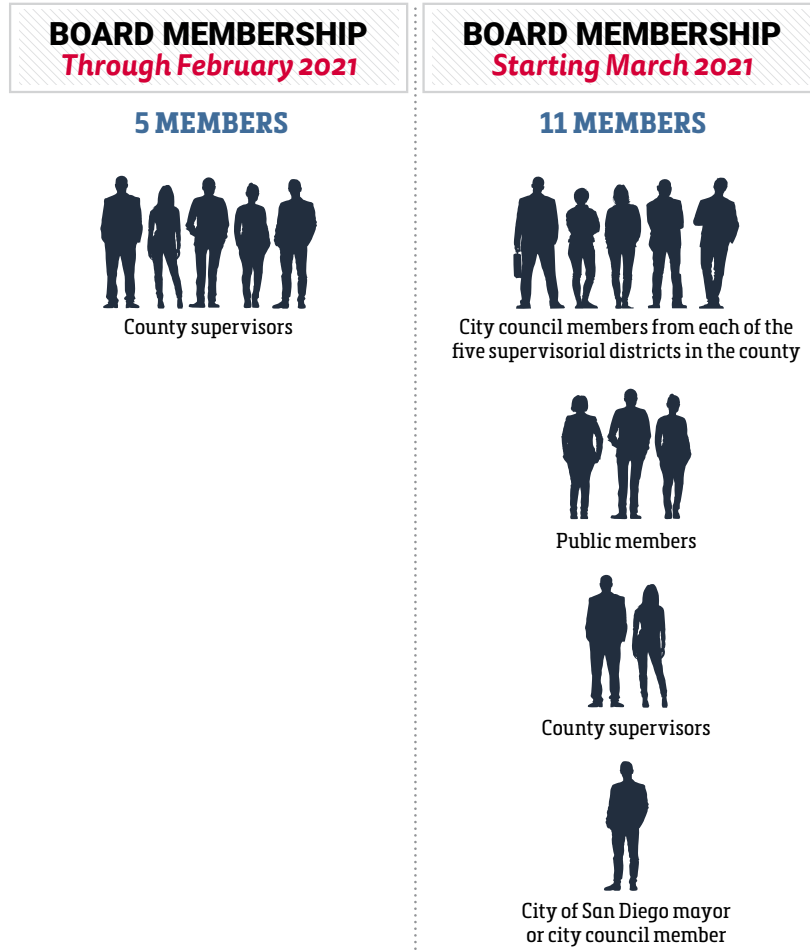
State law requires that effective March 2021 the San Diego Air District will create and maintain a separate website and publish the following:

- Its budget, including its projected and actual revenue and expenditures.
- The district board's agendas and minutes.
- All permit applications.
- Current permit information in a searchable and downloadable format (including maximum permitted and actual emissions by permit).
- All settled enforcement actions, face sheets of notices of violation, and notices to comply.

State law also requires the district to evaluate the current public complaint process by December 2021 and recommend a plan to update that process, including posting on its website information on complaints and their resolutions.

Source: State law.

Figure 5
State Law Will Restructure the San Diego Air District’s Governing Board to Expand Stakeholder Involvement



Source: State law.

The San Diego Air District Uses Vehicle Registration Fees to Subsidize Its Permitting Program

Key Points

- The San Diego Air District has not ensured that its permit fees are sufficient to pay for the costs of its permitting program. In fiscal year 2018–19, the district collected \$8.7 million in permit fees but spent \$12.5 million on the permitting program.
- Instead of raising its permit fees, the San Diego Air District used vehicle registration fees to offset some of the costs of its permitting program. Although it has broad discretion over the use of vehicle registration fees, using these funds to subsidize the cost of permits does not advance the district's mission of improving county air quality.

The San Diego Air District Has Not Charged Sufficient Fees to Pay for the Costs of Its Permitting Program

As the Introduction describes, the San Diego Air District's permitting program requires owners of certain types of equipment that emit air contaminants to obtain permits. The district's permitting program is responsible for performing activities such as evaluating the completeness of permit applications, processing permit applications, and issuing an operating permit if the equipment passes an on-site inspection. Before processing applications, the district requires applicants to pay established fees which are used for the costs of the permitting program. County policy requires departments to recover the full cost of services they provide through contracts, fees, or grant funds. The San Diego Air District states that it voluntarily follows this policy, despite its status as a special district.² If the district proposes changes in the fees, it must submit information to the county Auditor and Controller's Office (county auditor) documenting the support for its calculation of the change. In addition, the Government Finance Officers Association—an association of federal, state, and local finance officials—also recommends that state and local agencies calculate the full cost of providing services as the basis for setting fees and that they provide an explanation of their rationale if they do not recover the full cost of a good or service.

Despite such guidance, the San Diego Air District charges fees that are insufficient to pay for the full cost of its permitting program, thereby requiring it to subsidize that cost with funds from other sources. For example, in fiscal year 2018–19, the district collected \$8.7 million in permit fee revenue. Although its finance officer stated that the district does not calculate the actual costs for administering its permitting program, the district

² A special district is an agency formed pursuant to state law for the local performance of government functions within a limited boundary.

estimated that the cost of the divisions directly involved in the permitting process would be \$10.8 million for fiscal year 2018–19. Based on actual expenditure data, we calculated that the costs of the divisions directly involved in the permitting program were at least \$9.5 million. However, neither the district’s estimate nor the \$9.5 million we calculated included the costs incurred by its support services, administrative, and public information divisions (administrative costs) that should be associated with the permitting program. Because administrative costs should be assigned to the operations receiving the related administrative services, a portion of the San Diego Air District’s administrative costs should be allocated to the permitting program. For example, the district’s support services division provides a variety of services—including permit renewal invoicing, accounting, and fleet management—that the permitting program benefits from and should pay its fair share. For fiscal year 2018–19, the district’s total administrative costs were \$6.7 million, and our calculations concluded that \$3 million of these costs are attributable to the permitting program.³ Thus, as Table 1 shows, we calculated the total cost of the permitting program to be \$12.5 million.

.....

The San Diego Air District charges fees that are insufficient to pay for the full cost of its permitting program, thereby requiring it to subsidize that cost with funds from other sources.

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Although the district agreed that overhead costs could be calculated this way, it defended the reasonableness of its estimate for the cost of permit fees because it believes it complied with county policies. In fact, the county auditor informed the San Diego Air District that the methodology of its cost-recovery proposal for its permit fees for fiscal year 2018–19 was consistent with the county’s cost-recovery policy. However, that calculation included a figure that the district describes as a “revenue offset.” The calculation the district submitted to the county for fiscal year 2018–19 included a total of \$6.6 million in vehicle registration fees designated as the revenue offset. The majority of the offset was subtracted from the district’s estimated administrative costs, which reduced the amount of the permitting fees.

³ The San Diego Air District’s financial data show that the costs for the divisions participating in the permitting process made up nearly 45 percent of its total nonadministrative costs. Multiplying its total administrative costs of \$6.7 million by this percentage results in \$3 million of costs that can be attributed to the permitting program.

The San Diego Air District’s assistant director (assistant director) stated that in the 1990s the district board directed the district to use vehicle registration fees to subsidize permit fees.⁴ Further, the San Diego Air District’s executive director (executive director) stated that the district believes that county policy does not require that the permitting program recover all of the costs associated with its activities, as long as the district’s total costs are covered by revenue sources other than the county’s general fund. However, as we discuss in more detail below, the district’s decision to use vehicle registration fees to cover the costs of its permitting program has impaired its ability to improve air quality.

Table 1
The San Diego Air District Collected Nearly \$4 Million Less in Permit Fees Than the Permitting Program Cost in Fiscal Year 2018–19
(In Millions)

<i>Direct Costs</i>	
Engineering	\$3.4
Source Testing	1.2
Hearing Board	0.2
Compliance	4.7
Total Direct Costs	\$9.5
<i>Administrative Costs</i>	
Support Services	\$1.7
Administration	1.2
Public Information	0.1
Total Administrative Costs	\$3.0
<i>Permit Fee Deficit</i>	
Permit Fee Revenue	\$8.7
Total Costs	(\$12.5)
Total Permit Fee Deficit	(\$3.8)

Source: San Diego Air District financial data and interviews with district staff.

Note: The costs for and fee revenue from the district’s asbestos permitting activities are included in this table because we could not clearly differentiate between the costs related to asbestos permits and other permits in the financial data we obtained. Fee revenue for asbestos permits was approximately \$800,000 in fiscal year 2018–19.

The significant difference between the San Diego Air District’s permit revenue and expenditures—which it is using vehicle registration fees to cover—stems from the district’s reluctance to increase permit fees.

⁴ The district board appointed the assistant director to the role of interim director in June 2020, upon the executive director’s retirement. In this report, we refer to these individuals by the titles they held during the period of our audit.

As the Introduction describes, state law generally allows the district to increase existing permit fees by up to 15 percent each fiscal year but limits those fees to the actual costs of its permitting program in the prior fiscal year, adjusted for the change in the annual California consumer price index. Before an increase in fiscal year 2017–18, the San Diego Air District had previously updated permit fees in 2011. From fiscal years 2017–18 through 2019–20, it proposed increases in both initial permit fees and renewal fees that it estimated would increase revenue by an average of 4 percent per year. However, the district would need to significantly increase permit fees to pay for the full costs of the permitting program in the absence of other funding sources. Had the San Diego Air District’s fees reflected its actual permitting process costs in fiscal year 2018–19, we estimate that those fees would have been 44 percent more than the amounts that the district charged. For context, such an increase would have resulted in the price of an initial permit for certain gas stations increasing from about \$2,350 to \$3,384. Because of the legal limits on fee increases, such increases would have to be phased in over several years.

The assistant director acknowledged that if the district did not use vehicle registration fees to subsidize the permitting program, it would have to increase permit fees or identify other sources of revenue to cover its actual permitting program costs. The district is in the process of hiring a consulting firm to review its permit fee methodology and provide suggestions for improvements. In the meantime, the district developed a draft fee calculation for fiscal year 2020–21 that proposes increasing revenue from initial permit fees and permit renewal fees by 1.6 percent and 8.8 percent, respectively. This calculation projects that the San Diego Air District will still need more than \$5 million in vehicle registration fees to

offset the costs of the permitting process. Until the district updates its calculation to remove the revenue offset component, it will continue to undercharge for permit fees and will require funds from other sources to subsidize the cost of the permitting program.

The San Diego Air District’s Use of Vehicle Registration Fees to Subsidize Its Permitting Program Has Resulted in Less Funds for Reducing Mobile Emissions

Although the San Diego Air District has primary responsibility for controlling air pollution from stationary sources, its mission is to improve air quality to protect public health and the environment. As the text box shows, an American Lung Association report found that San Diego was the sixth most ozone-polluted metropolitan area in the country in 2019. Despite significant reductions in the county’s ozone pollution from 2000 to 2015, CARB

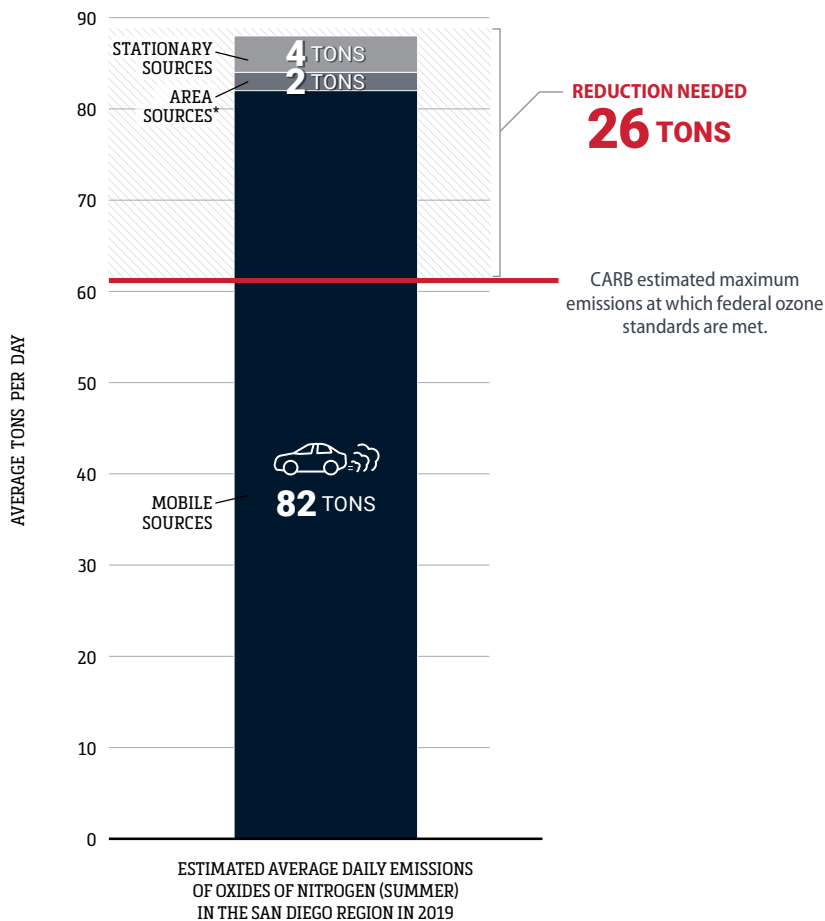
Top 10 Most Ozone-Polluted Metropolitan Areas in the United States in 2019

1. Los Angeles-Long Beach, CA
2. Visalia, CA
3. Bakersfield, CA
4. Fresno-Madera-Hanford, CA
5. Sacramento-Roseville, CA
6. San Diego-Chula Vista-Carlsbad, CA
7. Phoenix-Mesa, AZ
8. San Jose-San Francisco-Oakland, CA
9. Houston-The Woodlands, TX
10. New York-Newark, NY-NJ-CT-PA

Source: The American Lung Association’s report *State of the Air 2019*.

estimated that the San Diego region must reduce daily emissions of ozone-causing pollutants by another 26 tons to meet federal air quality standards. However, as Figure 6 shows, the stationary sources for which the district has primary responsibility produced only 4 tons of such pollutants per day in 2019. As a result, even if the San Diego Air District were able to eliminate all pollution from stationary sources, the region would still not meet the federal standards. In contrast, mobile sources—such as cars, trucks, and off-road equipment—are estimated to have contributed 82 tons of ozone-causing pollutants on average each day during 2019. Thus, to meet federal air quality standards, the San Diego region will need to reduce ozone-causing emissions from mobile sources.

Figure 6
The Stationary Sources That the District Regulates Contribute Only a Small Proportion of Ozone-Causing Emissions



Source: CARB California Emissions Projection Analysis Model emissions inventory 2019 and interviews with CARB staff.

Notes: Oxides of nitrogen transform into ozone when they react with sunlight and other gases.

CARB uses summer estimates for ozone planning because they reflect the conditions when higher ozone levels occur in the Southern California region.

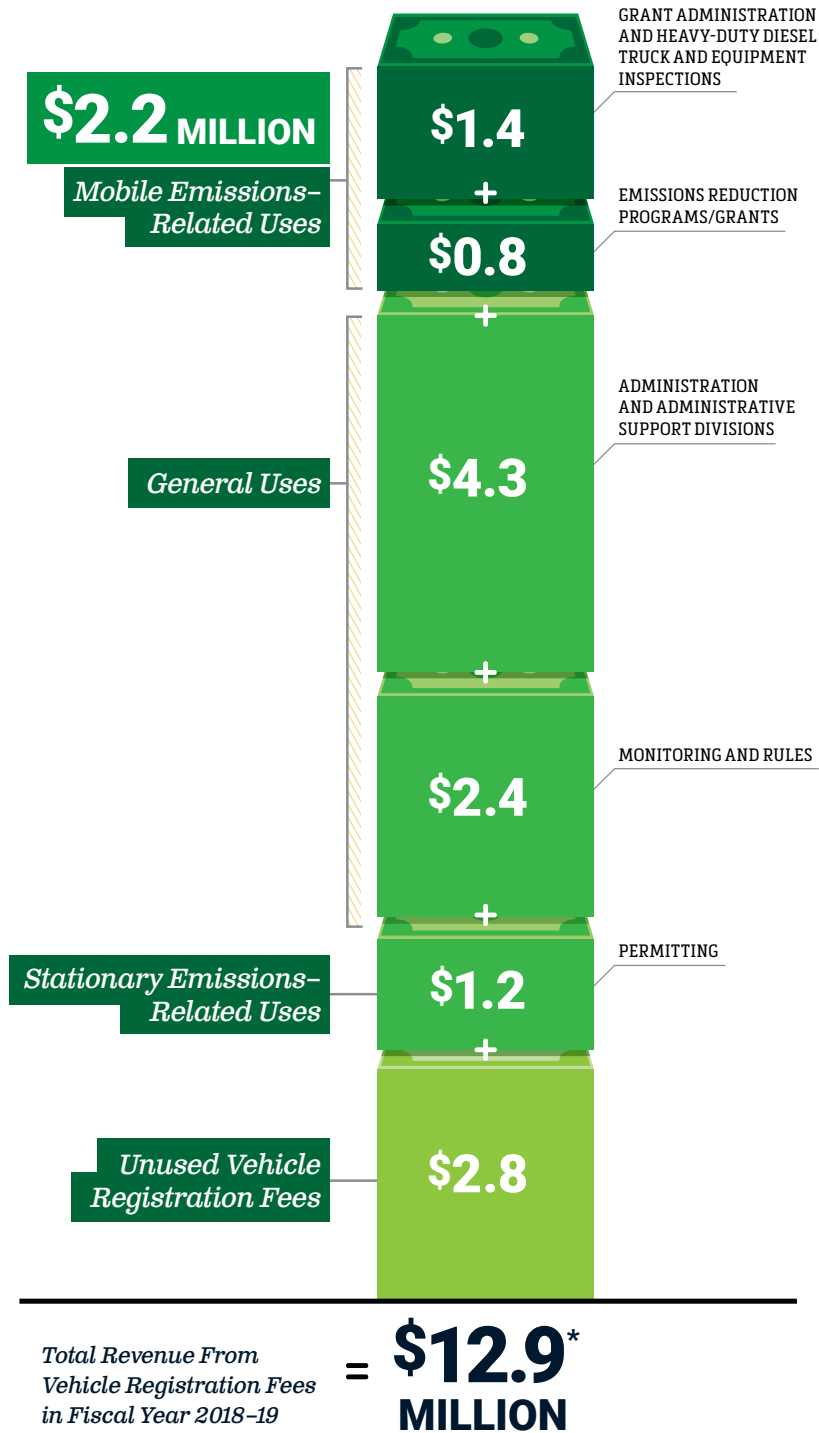
* Area sources include residential fuel combustion and outdoor burning.

As Figure 7 shows, the San Diego Air District spent only \$2.2 million of the \$12.9 million it received in vehicle registration fees in fiscal year 2018–19 on projects that were related to mobile emissions, such as diesel truck inspections. During this same period, it spent \$1.2 million of its vehicle registration fees on divisions directly involved in its permitting program. Further, it appears to have used some of the funds that it allocated to its administration and administrative support divisions—which received \$4.3 million in vehicle registration fees—for the permitting program. As a result, the amount of vehicle registration fees the district used to fund the permitting process was even greater than the amount Figure 7 shows.

Although the San Diego Air District’s use of the vehicle registration fees to support its permitting process for stationary sources is allowable under state law, that law changed a number of times over the past three decades. The 1990 state law allowing local air districts to receive a portion of the fees paid for each vehicle registered, generally limited the districts’ use of those fees to projects to reduce mobile emissions and related purposes. Further, it required the local air districts to report to CARB on their use of the funds. However, in 2004 the Legislature repealed the reporting requirement. In addition, the Legislature amended the law in 2015 to give most local air districts discretion to use these funds to meet and maintain air quality standards without requiring them to focus solely on mobile emissions. However, without a requirement for local air districts to report on their use of vehicle registration fees, it is unclear how the public would be informed of the use of these funds. CARB also acknowledged the usefulness of such a requirement. According to CARB’s chief counsel, one of CARB’s goals is to promote transparency, and requiring local air districts to annually report on vehicle registration fee expenditures would both allow CARB to be aware of the district’s efforts and help members of the public monitor their respective districts’ decisions for the use of those fees.

By allocating vehicle registration fees to support its permitting program, the San Diego Air District limits opportunities to address emissions from mobile sources, the largest contributor to the region’s ozone levels.

Figure 7
The San Diego Air District Spent Only \$2.2 Million of Fiscal Year 2018–19
Vehicle Registration Fee Revenue for Mobile Emissions-Related Uses
 (In Millions)



Source: San Diego Air District’s financial data and interviews with district staff.

* Total revenue for fiscal year 2018–19 includes \$353,000 in interest.

By allocating vehicle registration fees to support its permitting program, the San Diego Air District limits opportunities to address emissions from mobile sources, the largest contributor to the region's ozone levels. Although the San Diego Air District verified the revenue and cost amounts that we used in calculations showing that its permitting program operates at a loss, its assistant director stated that because air quality suffers due to mobile sources, the district has sought more emission reductions from stationary sources to compensate. However, the level of ozone-causing emissions from stationary sources has not changed significantly during the past 10 years, and even a large percentage decrease in such emissions would represent a minor contribution to meeting ozone standards. As we previously discuss, stationary sources in the region produced only 4 tons of ozone-causing emissions per day in 2019, while mobile sources contributed 82 tons per day, or nearly 95 percent of all such emissions. Because the necessary reductions are six times the total amount of emissions caused by stationary sources, the region will never be able to meet the standards solely through emissions reductions from stationary sources. CARB anticipates that additional emissions reductions will allow the region to meet federal ozone standards; however, it does not project doing so for another 12 years.

.....

Because the necessary reductions in mobile emissions to meet ozone standards are six times the total amount of emissions caused by stationary sources, the San Diego region will never meet these standards solely through emissions reductions from stationary sources.

.....

Consequently, the approach described by the assistant director cannot provide sufficient emissions reductions, and the San Diego Air District's continued use of vehicle registration fees to subsidize permits for stationary sources is not an effective use of these funds, nor does it contribute to the region's ability to meet federal air quality standards.

State law specifies how certain other local air districts must spend their vehicle registration fees, including requiring that they use a minimum proportion for the purpose of addressing mobile emissions. For example, in fiscal year 2018–19, the

Sacramento Metropolitan Air Quality Management District (Sacramento Metropolitan Air District) received \$5 million in vehicle registration fees, all of which it had to use to implement reductions in mobile emissions. Similarly, state law requires that the South Coast Air Quality Management District allocate at least 70 percent of the vehicle registration fees it receives—which totaled nearly \$55 million in fiscal year 2016–17—for activities to reduce mobile emissions and related activities. By raising permit fees to the level necessary to fully pay for the permitting program and using a greater proportion of its vehicle registration fees to address emissions from mobile sources, the San Diego Air District could advance the State’s efforts to meet federal air quality standards in the San Diego region and improve the air quality for San Diego County residents. In the next section, we identify some of the programs and resources that the district could support with its vehicle registration funds to reduce mobile emissions.

In addition, the San Diego Air District also chose not to take advantage of a state-funded opportunity to reduce mobile emissions in the county. Specifically, the district did not initially participate in the expansion of a state program that allowed districts to apply for funds beginning in fiscal year 2016–17 to provide subsidies to lower-income drivers in disadvantaged communities who dispose of their older vehicles (clean cars program). Drivers may use the subsidies to purchase certain hybrid and electric vehicles or pay for rideshares or public transportation. According to the assistant director, the executive director decided not to pursue the funds because staff were concerned that the district would not be reimbursed for the cost of setting up and administering the program.

However, after learning that the district had not applied for this program, one district board member was concerned that the district was not leveraging a funding opportunity to address the region’s air quality. He subsequently worked with district staff to identify why the district was not implementing the program. According to the assistant director, the district obtained approval from CARB to use funds from another source to pay for the cost of developing the program. In October 2019, the district board voted to approve implementation of the program. The San Diego Air District submitted an implementation plan for the program in February 2020, and the assistant director indicated that the district will complete the grant application process following CARB staff’s approval of that implementation plan. However, given that vehicles are the largest source of the emissions that have caused the San Diego region to fail to meet federal ozone standards, we expected to find that district staff had actively pursued this program from the time the district first became eligible to participate in it.

Recommendations

Legislature

To increase the transparency of, and promote accountability for, the use of the vehicle registration fees that the public pays, the Legislature should require that each local air district submit an annual report to CARB detailing how it used the vehicle registration fees it received. Both CARB and each local air district should be required to provide this information to the public on their websites.

To encourage the San Diego Air District to accurately account for its costs, operate efficiently, and effectively use vehicle registration fees, the Legislature should require that the San Diego Air District use at least 90 percent of the vehicle registration fees it receives for projects related to mobile emissions—roughly the proportion of ozone-causing emissions from mobile sources in the region—and it should further require that the San Diego Air District publicly disclose the disposition of any vehicle registration fees it does not use to address mobile emissions.

San Diego Air District

To ensure that it is leveraging all funding opportunities to address the region's air quality, the San Diego Air District should periodically evaluate all available state and federal grants to reduce mobile emissions and notify the district board if it decides not to pursue such programs.

To ensure that the permit fees it charges are sufficient to pay for its permitting program, the San Diego Air District should do the following by December 2020:

- Establish a methodology to calculate the full cost of its permitting program, based on its actual expenditures and administrative costs, and perform this calculation each year.
- Monitor the impact of the COVID-19 pandemic on San Diego County's economy and, when economic conditions allow, propose to the district board that it increase fees annually by the maximum percentage allowed until the district's revenue from permit fees is equal to the full cost of the permitting program.

The San Diego Air District and the District Board Have Not Taken Adequate Steps to Foster Public Engagement

Key Points

- Despite its failure to meet federal air quality standards, the San Diego Air District has not taken advantage of the methods that other districts use to encourage public engagement in improving air quality.
- The district board has not used its public meetings to deliberate on decisions related to improving regional air quality. As a result, it has limited transparency and reduced opportunities for the public to play a role in its decision-making process.
- The district board has not ensured that the advisory committee on whose advice it relies has complied with the State's public meeting requirements. Further, the district board lacks the perspective of relevant stakeholders because it has not taken steps to publicize and fill vacant positions on the committee.

The San Diego Air District Has Not Adequately Promoted Public Engagement in Improving Air Quality

The San Diego Air District has not consistently ensured public participation in its processes for improving air quality. As the text box shows, the methods available to local air districts to promote public participation can be divided into two categories—public outreach and public engagement. As Table 2 shows, we compared the San Diego Air District's public participation activities to those of two other large air districts—the Sacramento Metropolitan Air District and the Bay Area Air Quality Management District (Bay Area Air District)—and found that the San Diego Air District uses some of the same public participation activities that the other districts use. However, the Bay Area Air District uses methods to improve public participation that the San Diego Air District has not implemented, some of which have a demonstrable impact on reducing air pollution.

To guide its approach to public engagement, the Bay Area Air District has produced a public participation plan. This plan, which the Bay Area Air District updates intermittently, details how residents can engage with its efforts to improve air quality. The public participation plan describes a variety of activities that the Bay Area Air

Two Categories of Encouraging Public Participation

Public outreach involves informing the public of air quality issues and may include sharing information using the following communications tools:

- Websites
- Brochures
- Fact sheets
- News releases
- Social media

Public engagement involves soliciting input from the public, including obtaining feedback, and may be accomplished through the following:

- Surveys
- Opportunities for public comment on regulatory and permitting policies at:
 - Board meetings
 - Workshops

Source: EPA handbook: *Better Decisions Through Consultation and Collaboration* and the Bay Area Air District's public participation plan.

District draws from when conducting public participation activities. It also describes specific tools and options that the district can use for public outreach and public engagement. For example, the Bay Area Air District uses outreach tools such as Twitter to publicize opportunities for public engagement, like promoting opportunities for public comment at rule-making and air monitoring workshops. However, according to its assistant director, the San Diego Air District has not created such a plan. In addition, the Bay Area Air District has a community engagement division that employs staff to perform both public outreach and public engagement.

Table 2
The San Diego Air District Does Not Take Advantage of Some Public Participation Activities Used by Other Air Districts

	SAN DIEGO AIR DISTRICT	SACRAMENTO METROPOLITAN AIR DISTRICT	BAY AREA AIR DISTRICT
<i>Outreach Activities</i>			
Public Participation Plan	NO	NO	YES
Spare the Air Program	NO	YES	YES
Email Subscriber List	YES	YES	YES
<i>Engagement Activities</i>			
Social Media Emphasis on Public Participation	NO	NO	YES
Workshop for Public Input	YES	YES	YES
Customer Surveys	YES	NO	NO

Source: Air district websites, analysis of air district Twitter activity between October 1 and December 31, 2019, and interviews with air district staff.

Although the San Diego Air District employs workshops and surveys for public engagement, it does not have a plan to organize its participation efforts, nor does it use social media to encourage public engagement as the Bay Area Air District does. According to the assistant director of the San Diego Air District, the county centralized communications efforts several years ago for all county departments, including the district. He explained that this centralization has made the district's public outreach efforts more difficult because it eliminated the district's public outreach staff positions. As a result, the district does not have staff specifically dedicated to public outreach efforts.

According to the assistant director, the one staff member responsible for the San Diego Air District's outreach activities, among other responsibilities, primarily focuses on public information efforts, such as promoting district programs, rather than public engagement. Although the assistant director stated that the San Diego Air District is in the process of hiring additional staff for public communications, it is only in the preliminary stages of this process.

In addition, both the Bay Area Air District and the Sacramento Metropolitan Air District have incorporated Spare the Air programs into their outreach efforts, while the San Diego Air District has not. Spare the Air programs provide air quality forecasts and promote alternatives to driving during days with high pollution. The Bay Area Air District reported that in 2019 its Spare the Air campaign resulted in the reduction of more than 59 tons of pollutants in that year.⁵ It also reported that in fiscal year 2018–19, the Spare the Air program was the most cost-effective project for reducing emissions that it funded from vehicle registration fees. Efforts such as these demonstrate the potentially significant impact resulting from educating the public about how their choices affect air pollution and how alternative activities can reduce air pollution. Furthermore, since the San Diego region has failed to meet ozone standards, a Spare the Air program that is focused on reducing emissions could improve the region's ozone compliance status.

Since the San Diego region has failed to meet ozone standards, a Spare the Air program that is focused on reducing emissions could improve the region's ozone compliance status.

The assistant director stated that the district could evaluate the usefulness of a Spare the Air program; however, he also stated that the executive director believes a Spare the Air program may not be an appropriate approach for San Diego because its ozone levels are generally good with the exception of some inland portions of the county that experience higher levels of ozone during the summer. He also expressed concern that a Spare the Air designation for the entire county would be misleading to the public. However, CARB's review of the district's ozone attainment plan noted that the ozone

⁵ The Bay Area Air District calculated the reduction by analyzing the combined reductions in emissions of reactive organic gases, oxides of nitrogen, and other particle pollution.

that causes the elevated levels is transported inland from the coastal areas. As a result, a Spare the Air program to reduce ozone-causing emissions at their source, regardless of where the excessive levels are measured, would likely contribute to the region's ability to meet ozone standards.

As we discuss in the Introduction, state law recently created a new board structure for the San Diego Air District to make the district more responsive to the region's residents and businesses. According to the law's author, the board's existing structure does not reflect the diversity of county residents. As the San Diego Air District prepares for its new governing board, the district has an opportunity to reassess its methods of encouraging public participation and to propose implementing best practices of other air districts. The changes to state law make clear that the Legislature intends for the San Diego Air District to provide increased opportunities for public engagement. If the district does not dedicate additional staff and resources to solicit public input on air quality issues, it will miss a significant opportunity to restructure its operations to be responsive to the needs of county residents and businesses.

The District Board's Decision-Making Practices Have Reduced Transparency

The district board has not used its public meetings to deliberate on decisions regarding improving regional air quality, despite the fact that doing so would promote transparency and demonstrate its commitment to including the public in its decision-making process. From fiscal years 2016–17 through 2018–19, the district board met an average of about 10 times per year, and for the meetings we selected, it complied with the legal public meeting requirements that we reviewed—including timely announcement of meeting agendas, and that a quorum of members was established before it took action on agenda items. Generally, its meeting agendas consisted of items such as approving the district's budget, authorizing the district to execute grant agreements, and allowing the release of public reports. However, in all the meetings during the period we reviewed, the district board approved 89 percent of all agenda items it considered through a parliamentary mechanism known as *consent*, which generally allows it to approve all of the items on its consent agenda without discussing the issues during the meeting unless a member of the public or the board specifically asks to remove an item from the consent agenda.

Because its use of consent allowed it to vote on the items without publicly discussing them on an individual basis, the board members' deliberations were not fully transparent. In fact, it approved only

four agenda items during this time frame without using consent—including the San Diego Air District’s budgets for fiscal years 2018–19 and 2019–20 and a May 2019 decision that directed the district to evaluate the impact on public health of reducing air pollution threshold levels. To promote public trust, government should be transparent, and stakeholder involvement can improve the quality of policies. However, practices such as choosing not to discuss decisions during board meetings can reduce the transparency of government actions and may discourage public involvement. In fact, data maintained by the county’s clerk of the board of supervisors indicate that the district board received requests from the public to speak in only three of the 31 meetings it held from fiscal years 2016–17 through 2018–19.

.....

The district board approved on consent basis—89 percent of all agenda items it considered in the meetings during the period we reviewed—thus, the board members’ deliberations were not fully transparent.

.....

The San Diego Air District has been criticized for its failure to encourage public involvement in its decisions in the past. In a 2008 review, the EPA found that the district had not adequately reached out to certain communities with respect to permitting and that it had issued notices of proposed permits in a business-focused publication that had limited circulation among the general public. The EPA expressed concern that the district never received any public comments on proposed Title V permits and suggested that the reason for a lack of input could be in part because it had not used effective means to notify the public about such permits. To remedy this concern, the EPA recommended using other methods of informing the public of pending permits.

When we asked two current district board members why the board meetings included so little discussion on air quality issues, one member explained that the district board has adopted most agenda items through consent because it has a high level of confidence in the San Diego Air District’s staff and director. The board member also stated that the San Diego Air District has been able to reach consensus with stakeholders in regard to issues such as new rules, the budget, fees, and the regional and state plans. The other district board member stated that the board meetings rarely received public comments. However, based on his recent experience at a public meeting in the San Diego area that CARB hosted, he believes that

the community wants to participate. He stated that the board could be more proactive in engaging with the public regarding air quality. He also agreed that the district board has not proactively provided direction to the San Diego Air District or engaged with the district to pursue improvements in air quality.

One board member stated that he believes the community wants to participate and that the board could be more proactive in engaging with the public regarding air quality.

This approach to making critical decisions does not align with the role of a governing board. According to state law, public boards should conduct their actions with transparency, and members of the public should generally be provided an opportunity to directly address the board during the decision-making process. Although the district board did not prohibit the public from speaking at its meetings, its practice of making decisions through consent did not foster an environment that encourages public comment or participation. To accomplish these goals, it is critical that public boards deliberate openly when making their decisions. Until the district board embraces these practices, it risks failing to ensure that the public has an appropriate role in its decision making.

The District Board Has Not Ensured That Its Advisory Committee Includes Critical Stakeholders and Complies With Public Meeting Requirements

Rather than discussing issues at its meetings, the district board has instead relied on recommendations from an advisory committee that has consistently failed to comply with state public meeting requirements and whose composition does not reflect its intended membership. The district board could have fostered stakeholder participation through the advisory committee it created for the purpose of involving representatives of certain groups, but it failed to ensure that the committee membership included all of the additional perspectives it was intended to represent. As the Introduction explains, the purpose of the advisory committee is to provide recommendations to the San Diego Air District and the district board regarding the San Diego Air District's annual budget, permit fees, annual progress reports, and regulatory changes.

For example, the advisory committee recommended changes to county rules regarding asbestos removal and, citing that recommendation, the district board subsequently approved the rule change on consent.

The advisory committee consists of nine members—five members nominated by the board, two members nominated by environmental organizations, and two members nominated by business interests, one of which should represent small businesses and one of which should represent larger businesses. We refer to the four seats representing environmental and business interests as *stakeholder seats*. However, according to an assistant clerk of the board at the county board of supervisors, one of the seats for members nominated by environmental organizations has not been filled in almost 30 years, the other has been vacant for more than 24 years, and the seat for a representative of small businesses has been vacant for more than 12 years, as Figure 8 shows.

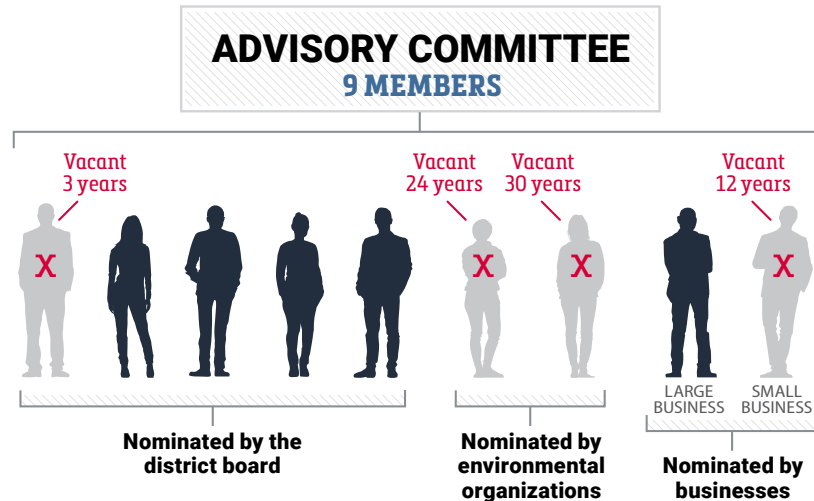
.....

One of the seats for members nominated by environmental organizations has not been filled in almost 30 years, the other has been vacant for more than 24 years, and the seat for a representative of small businesses has been vacant for more than 12 years.

.....

The assistant director pointed us to an annual county report listing vacancies on boards, committees, and commissions, but we found that from December 2015 through December 2019, none of the county's annual reports listed these vacant stakeholder seats. Further, when we reviewed a selection of the county's monthly vacancy reports from 2019, none included the stakeholder seats. We discussed this issue with a district board member who confirmed that the advisory committee vacancies have not been posted in the monthly vacancy reports and that he was working with the clerk of the county board of supervisors to rectify the situation. The county board of supervisors' failure to publicize the advisory committee's vacancies is problematic. The committee's intended composition suggests that its purpose is to provide the perspective of other stakeholders in the field of air pollution. However, for many years, the district board relied on the recommendations of a committee whose composition did not align with its intended purpose.

Figure 8
The San Diego Air District Board Failed to Ensure That Its Advisory Committee Included Members Representing Stakeholder Perspectives



Source: Interviews with county staff; and San Diego County Boards', Commissions', and Committees' Member History Reports.

In addition, the district board did not provide appropriate oversight to ensure that the advisory committee complied with state public meeting requirements. The advisory committee is subject to these requirements, which include the need to have a quorum—or a majority of members—present at its meetings in order to lawfully take action on the items on its agenda. However, the advisory committee voted on items during all 13 meetings it held from fiscal year 2016–17 through December 2019 despite not having a necessary quorum of members present. For example, in June 2019, the committee held a meeting with only one committee member present. However, the meeting minutes reflect that the committee—consisting of that single attendee—voted to recommend that the board approve multiple proposed rules and rule amendments. The district board subsequently adopted these rules and amendments through its consent process. In another instance, in a September 2017 meeting, the advisory committee voted to approve a new rule related to asbestos. In addition to the fact that only two members attended the meeting, the advisory committee's minutes noted three votes in favor of recommending that the board approve the rule because it counted an email submitted by an absent member as an *aye* vote. However, voting by email violates the State's public meeting laws, as members must be physically present at the meeting or attend via teleconference. Nonetheless, the agenda for the district board's meeting described

the proposed rule as “supported by the Air Pollution Control District Advisory Committee,” and the district board proceeded to approve the item on consent.

The assistant director did not provide an explanation for why the advisory committee conducted operations in violation of state law, instead stating that the committee was doing the best that it could, and that the district staff typically described how many members of the advisory committee were in attendance when providing the committee’s recommendations to the district board. Nevertheless, notifying the district board does not allow the advisory committee to deviate from complying with public meeting laws. When we described the advisory committee’s lack of a quorum to a board member, he explained that the county counsel provides guidelines regarding public meeting requirements to members of the boards, commissions, and committees the district board oversees, and that the board assumes they are following the State’s public meeting requirements. However, this level of oversight is obviously inadequate. Even a brief review of meeting minutes revealed that the advisory committee failed to comply with public meeting requirements. Had the San Diego Air District and the district board devoted more attention to addressing the vacant seats on the committee and ensuring that it was complying with the requirements of the State’s public meeting laws, they could have better demonstrated a commitment to conducting the public’s business openly and appropriately.

.....

**Even a brief review of meeting minutes
revealed that the advisory committee failed
to comply with public meeting requirements.**

.....

As we previously discuss, recent changes to state law will alter the composition of the district board to include representatives of the county, the region’s cities, and the public—including one member of the public with expertise in public health, another with expertise in environmental justice, and a third with a scientific or technical background in air pollution. Thus, state law will restructure the district board to be more representative of the San Diego Air District’s stakeholders, which should ensure some of the additional public perspective and expertise that the advisory board was intended to provide. However, because the future composition of the district board does not include representatives of the business community, the board may wish to retain the advisory committee. If it does so, it should not accept recommendations of the advisory

committee unless the committee complies with the State's open meeting requirements and is composed of the stakeholders whose perspectives it is intended to represent.

Recommendations

To ensure that it is responsive to its stakeholders and encourages public participation in the creation of its regulatory and permitting policies, the San Diego Air District should create and implement a public participation plan by January 2021 that includes both public outreach and public engagement activities.

To ensure that its decisions are transparent and that it encourages opportunities for public involvement, the district board should publicly deliberate on key issues related to air quality during its regular meetings.

Because the new district board will include additional stakeholders who represent some of the interests that the advisory committee was intended to represent, the district board should determine whether the advisory committee is still necessary. If the district board determines that the advisory committee is still necessary, it should do the following:

- Immediately publicize the vacancies on the advisory committee on its website and in the monthly and annual county reports of vacancies on boards, commissions, and committees, and actively seek nominations to fill these positions.
- Ensure that the district's legal counsel monitors the advisory committee meetings beginning immediately, and advises the committee when it does not comply with state public meeting requirements.

The San Diego Air District Cannot Provide Accurate Complaint Information and Has Not Ensured That All Complaints Are Properly Addressed

Key Points

- Because of missing and illogical information in its complaint database, the San Diego Air District does not have accurate information necessary to determine whether it is meeting new statutory requirements.
- The San Diego Air District has not consistently followed its policies for investigating public complaints. It did not investigate one of the 10 complaints we reviewed, an oversight that it could have avoided if it required supervisors to review investigation reports within a specific time frame after it receives complaints, and it was late in investigating another complaint.

The San Diego Air District Cannot Currently Provide the Public With Accurate Complaint Data

The San Diego Air District's database of public complaints about air quality contains numerous inconsistencies and errors that compromise the reliability of that information. Consequently, the district is currently unable to present accurate information to the public regarding the complaints it has received. The district accepts complaints from the public about air pollution in the county—including smoke, dust, and odors—by phone, email, or the county's mobile application for reporting problems. However, the assistant director confirmed that the district posts complaints on its website for only one community in the county and does not publish complaints for the rest of the county. State law requires the San Diego Air District to evaluate its current public complaint process and provide a plan by December 2021 for updating that process—including responding to complaints within 48 hours or less. As part of that process, it must publish on its website the items that the text box lists.

The San Diego Air District tracks information about complaints electronically, yet we found that its database contained numerous errors and that district staff were unable to appropriately use the software that stores this information. Consequently, the data the district provided to us were incomplete and contained illogical information. District staff provided us on multiple occasions with what they asserted were all of the records in the complaint database. However, as a result of errors by district staff, the first dataset included records with

Complaint Information That the San Diego Air District Must Publish on Its Website by December 2021

- All settled enforcement actions in a downloadable and searchable format.
- The face sheets of notices of violation or notices to comply 30 days after issuing these notices.

In addition, the San Diego Air District must evaluate its complaint process and provide a plan to publish on its website, the following:

- Date and time of each complaint.
- General nature of each complaint.
- Closest intersection to the site of each complaint.

Source: State law.

duplicate record numbers and the second excluded certain records. Further, some information in the records was not logical. For example, some records contained data indicating that the district investigated complaints before the date the complaints were received.

The data the district provided to us were incomplete and contained illogical information and duplicate record numbers.

The chief of the district's compliance division (compliance chief) explained that when the district receives repeated complaints about the same facility, staff enter in the database the date that an inspector conducted an investigation for the first complaint as the investigation date for all of the complaints. Consequently, the database would indicate for the latter complaints that an investigation occurred before the complaint had ever been made. However, if the district performs an investigation before it receives a related complaint, the conditions leading to that complaint may have reoccurred after the initial investigation took place. As a result of its approach, the district may not have assurance that the conditions causing each complaint have been sufficiently resolved. Further, the inaccurate dates preclude the district from accurately determining the amount of time it has taken to respond to each complaint it received—information that is necessary to determine whether it is meeting the new statutory requirements.

To address these data entry issues, the San Diego Air District is working with an information technology vendor (IT consultant) to assess its current complaint process. The IT consultant proposed recommendations in December 2019 that identified a number of areas for improvement and provided multiple recommended action steps. For example, the IT consultant suggested that the database should not allow a user to submit data if critical fields are missing information and that it should notify users when such data are missing. According to the San Diego Air District's information technology principal, the district expects to review an estimate of the cost and scope of work for upgrades to the database in July 2020 and anticipates completing that work by June 2021.

Among other recommendations, the IT consultant suggested that the district clean up the existing data within the complaint database to allow for accurate reporting. Along with striving to prevent future errors, it is important for the district to perform this clean-up so that it can evaluate its responsiveness to earlier complaints and their outcomes. Additionally, according to the U.S. Government Accountability Office, managers need

information that is complete and accurate to make effective decisions and evaluate performance in achieving key objectives and addressing risks. Without such information, the San Diego Air District places itself at a disadvantage in administering its complaint process.

The San Diego Air District Lacks Policies and Procedures to Ensure That It Responds Promptly to Public Complaints

The San Diego Air District has not provided effective management oversight of its investigations of public complaints. When the public makes an air pollution complaint, the district's policy is to respond within 24 hours or by the next business day. Investigators must submit a report after completing their investigation. However, our review of a selection of complaints found that—in violation of its policy—the district did not perform investigations for all complaints. Further, it does not have a requirement that supervisors review the completed investigation reports within a required time frame, which might have helped it identify any violations of its policy.

As we discuss previously, the data the San Diego Air District provided to us were incomplete and inaccurate. Thus, when analyzing these data, we excluded 5 percent of the district's complaint records because they contained blank or inaccurate dates. The remaining records show that the district received an average of 780 complaints annually for fiscal years 2016–17 through 2018–19, and that it began investigating 90 percent of these complaints within one business day. According to these data, the district took an average of 42 business days from receipt of the complaint to complaint closure. In addition, 79 percent of all complaint responses were closed within 60 business days, and roughly 15 percent of complaints resulted in enforcement action.

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Our review found that the district failed to investigate one of the 10 complaints and did not begin a second complaint investigation within the time frame established in its policy.

.....

Because of our concerns with the complaint data, we reviewed the investigation reports for a selection of 10 complaints to determine whether the San Diego Air District complied with its policies for investigating complaints. Our review found that the district failed to investigate one of the 10 complaints and did not investigate a second complaint within the time frame established in its policy. The compliance chief explained that the district's failure to

perform the one investigation was due to an oversight but that it received a subsequent complaint about the same issue 48 days later, which it then investigated. Although the district eventually investigated the cause of this particular complaint, we are concerned that it would not have done so had it not received a subsequent complaint.

The problems we noted are likely in part the result of a lack of formal procedures to help ensure that the district investigates all complaints. For example, the district does not require supervisors to review complaints within a specific time frame after an investigator should have responded. The compliance chief explained that the San Diego Air District wants supervisors to prioritize the review of investigations that result in violations. However, without requirements for the supervisory review of all complaints within a specific time frame, the district risks continuing to overlook complaints.

The San Diego Air District has a feature in its complaint database that tracks the dates supervisors review complaint responses. The district could use this field to track those investigations that have not yet been submitted for supervisory review and follow up on them after a certain period to determine whether the investigations are occurring. When members of the public must submit complaints multiple times to prompt the district to take action, it may reduce their confidence in the district and could diminish their motivation to inform the district of issues in the future. Because complaints are a valuable source of information regarding potential noncompliance, it is important that the district demonstrate to the public that it prioritizes collecting, tracking, and addressing complaints promptly and accurately.

Recommendations

To ensure that it effectively manages its complaint investigation process and provides accurate information to the public regarding the complaints it receives, the San Diego Air District should do the following by June 2021:

- Establish policies and procedures that require staff to validate the information they enter in the district's complaint database. The district should also periodically review the accuracy and completeness of the data.
- Establish time frames for its supervisors to review complaint investigation reports and verify that investigators have responded to complaints in an appropriate and timely manner.
- Establish a process for validating the accuracy of the data it previously entered into its database.

OTHER AREAS WE REVIEWED

To address the audit objectives approved by the Joint Legislative Audit Committee (Audit Committee), we also reviewed the San Diego Air District's negotiations to continue receiving administrative services from the county, the district's processes for applying for and administering grants, the extent to which district staff are devoting time to county-related activities, and the district's ability to engage with the public in the most commonly spoken languages in the county. A portion of this review resulted in a recommendation that we did not previously present in the report.

The San Diego Air District's Negotiations to Continue Receiving Administrative Services From the County

As the Introduction describes, a recent amendment to state law will restructure the district board beginning in March 2021. As a county department, the district currently receives services such as information technology, legal counsel, and human resources services from departments within the county. However, because the restructured district will not be governed by the county board of supervisors, it will no longer function as a county department and will thus have to secure those services by either soliciting outside vendors, hiring staff, or contracting for those services with the county. The San Diego Air District is pursuing the latter option by negotiating with the county to secure an agreement for the services it needs. According to the district's legal counsel, the contract will allow the district to continue operating until the new district board can decide whether to continue obtaining these services from the county or pursue other options. The county's legal counsel indicated that as of March 2020 the two parties were close to reaching an agreement—one year before the San Diego Air District stops functioning as a county department. However, at the county's request, presentation of a finalized agreement was withdrawn from the district board's agenda for its June 2020 meeting. If the county and the San Diego Air District are unable to come to an agreement before it seats its new board, the district will have to obtain these services from another entity or by hiring staff.

Recommendation

To ensure that it has a method of providing key administrative services in place by the time it ceases to function as part of the county, the San Diego Air District should finalize its agreement with the county to continue providing key administrative services as soon as possible.

The Process for Administering State and Federal Grants

The San Diego Air District received state grants and awarded incentive grants to eligible local projects over the last several years. As we describe previously, the district did not participate in the State's clean cars program when it was first allowed to apply for funds from this program for fiscal year 2016–17. In fact, CARB identified a total of 17 solicitations for state grants from fiscal year 2016–17 through February 2020 for which the San Diego Air District did not submit an application. The district's choice to not pursue 15 of these grants appears reasonable based on the characteristics of the grants. However, in addition to the clean cars program, the San Diego Air District could have applied for two other pilot programs that incentivized the adoption of clean vehicle technologies in lower-income households and in disadvantaged communities. The district's grants manager explained that these projects were very different administratively than the district's existing grant programs and that at the time the district felt that it did not have the resources or expertise to successfully administer these programs. However, it subsequently identified alternative funding to administer one of these programs and applied to do so at the prompting of a board member—actions it should have considered on its own.

According to the district's grants manager, the EPA and CARB notify the San Diego Air District when the district may be eligible for an upcoming grant. The district submitted applications to CARB after receiving these notifications for most of the grant opportunities for which it was reasonable for it to apply. As we stated previously, from fiscal years 2016–17 through 2018–19, the San Diego Air District collected a total of \$22.8 million in grant funds, and it expects to collect another \$30.4 million in fiscal year 2019–20—for a total of \$53.2 million. These grants come from CARB and federal agencies, such as the EPA and Homeland Security.

We reviewed a selection of five grants totaling nearly \$390,000 that the district awarded to local applicants for the purchase of cleaner-than-required engines and equipment and found that it generally complied with key requirements when awarding these grants. However, during the period we reviewed, the district did not ensure that grant recipients submitted all required status reports in a timely manner. Nevertheless, at the time of our review, the district had received the required reports for the most recent period for all but one of the grantees we selected. According to the district's grants manager, the district considers grantees to have satisfied the requirements of the contract if they have submitted their status report for the most recent period, and as of April 2020 all but one grantee among the five selected had satisfied the status

reporting requirements. The grants manager also explained that the district recently hired an aide to monitor status reports, and she anticipates that this will reduce the number of missed status reports in the future.

Use of San Diego Air District Staff for County-Related Activities

The county has required San Diego Air District staff to participate in some county meetings and trainings. The district's finance director confirmed that the county has required some district staff, primarily divisional chiefs, to participate in some county functions such as county management and leadership activities, budget and finance meetings, and training events. However, after the district stops functioning as a county department, it will no longer be subject to county direction, it will have a separate budget process, and it plans to obtain an independent financial system. As a result, the assistant director confirmed that district staff will not be required to participate in county meetings regarding budget or finance activities. Further, district executive personnel will not be required to participate in various county-related leadership meetings. However, the assistant director also stated that current and future district employees will continue to be county employees. Thus, district staff may be required to participate in some county human resources meetings or employee training after the district ceases to function as a county department in March 2021.

The San Diego Air District's Ability to Engage With the Public in the Most Commonly Spoken Languages in the County

The San Diego Air District is able to meet the language needs of the vast majority of county residents. Based on 2016 census data, 95 percent of San Diego County residents speak either English or Spanish exclusively or, if they speak a primary language other than English or Spanish, they also have English fluency. According to its human resources officer, the San Diego Air District employs nine Spanish-speaking staff. The district's website also provides public complaint forms in Spanish and has some educational videos in Spanish that explain how to comply with certain district regulations. District staff stated that there has not been significant demand for permit services in languages other than English. However, in the event of such requests, the San Diego Air District has access to interpretation services from a vendor contracted by the county that enables it to accommodate the needs of residents who speak other languages. According to the district's finance director, the district intends to include language services in the agreement for services that it is currently negotiating with the county.

We conducted this performance audit under the authority vested in the California State Auditor by Government Code 8543 et seq. and in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

July 16, 2020

Appendix A

Scope and Methodology

The Audit Committee directed the California State Auditor to conduct an audit of the San Diego Air District's financial transparency and its interaction with stakeholders and the public regarding decisions that affect regional air quality. The audit scope included eight objectives. The table below lists the objectives that the Audit Committee approved and the methods we used to address them.

Audit Objectives and the Methods Used to Address Them

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed relevant laws, regulations, and other background materials.</p>
<p>2 Review and evaluate the procedures and processes that the San Diego Air District used in making key environmental and public health decisions during the four most recent fiscal years.</p>	<ul style="list-style-type: none"> • Interviewed district board members and district staff to determine the district board's process for making air quality-related environmental and public health decisions. • Reviewed district board meeting minutes to identify the district board's process for voting on agenda items. • Interviewed two district board members and a county environmental organization to obtain their perspective on the district's responsiveness to the public.
<p>3 Review the county's budget, financial statements, and other documentation for the past four fiscal years and determine the following:</p> <ol style="list-style-type: none"> a. The revenue and expenditures within the general categories used by the San Diego Air District. b. Significant revenue and expenditure items for each fiscal year. c. The rationale for significant changes in revenue and expenditures during the four years. d. The rationale for items included in the district's budget. e. The annual cost of facility inspections, enforcement, equipment fees, and related costs compared to permit fee revenue. 	<ul style="list-style-type: none"> • Reviewed the San Diego Air District's financial data from fiscal years 2016–17 through 2019–20. • Reviewed county policy and interviewed district staff to understand the district's processes for categorizing its revenue and expenditures in general categories and among its divisions and how it provides budget data to the county. • Grouped individual revenue and expenditures into related categories to identify significant revenue and expenditure items and any significant changes from fiscal years 2016–17 through 2019–20. • Identified several categories of revenue and expenditures that changed significantly during the four-year period we reviewed. Specifically, using the district's financial data, we identified categories of revenue and expenditures greater than \$500,000 that increased or decreased by more than 30 percent. These categories included five categories of expenditures and two categories of revenue. Our review of this activity by division for each category and interviews with district staff indicated that the significant changes were reasonable. • Reviewed the district's permit fee schedules from fiscal years 2017–18 through 2019–20. • Reviewed county and district policies and interviewed county and district staff to determine the district's process for calculating annual permit fees; reviewed the county's and district board's processes for approving the district's permit fees. • Reviewed financial data and interviewed district staff to determine if revenue collected from permit fees was sufficient to cover the actual costs of its permitting program.

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AUDIT OBJECTIVE	METHOD
<p>4 Review and evaluate a selection of timesheets and associated documentation for the San Diego Air District staff to determine the extent to which staff's time is being used for activities related to the district's responsibilities and mission. To the extent possible, determine whether staff provided support for activities in the land use and environment group outside of the scope of the responsibilities of the district. If staff provided such support, determine the funding source.</p>	<ul style="list-style-type: none"> Reviewed district policies and interviewed district staff regarding county requirements for district staff to participate in county activities. Confirmed that the San Diego Air District will no longer function as a county department beginning March 2021 and will not be required to participate in various county activities. As a result, we did not perform additional work related to this objective.
<p>5 Review the county's budgeting process as it relates to the San Diego Air District to determine the following:</p> <ol style="list-style-type: none"> How the district prepared and documented its budget. For the past four fiscal years, whether there is an overlap in revenue and expenditures between the district's budget and other county departments. 	<ul style="list-style-type: none"> Reviewed the district's financial data and its process for tracking revenue and expenditures as part of Objective 3. Reviewed county policy and interviewed district staff to determine how the district coordinated with the county to develop and present its annual budgets. Specifically, the district prepares its budgets by working through the county's General Management System. Reviewed fiscal year 2019–20 district financial data and determined that district funds transferred to the county were for services provided by the county to the district.
<p>6 Determine whether the San Diego Air District has applied for any grants in the previous four fiscal years. For those grants awarded, determine amounts the district has received and review a selection to determine compliance with key terms of the grants.</p>	<ul style="list-style-type: none"> Reviewed district policies and interviewed CARB and district staff to determine the district's process for identifying and applying for state grants. As part of Objective 3, reviewed the San Diego Air District's financial data from fiscal years 2016–17 through 2019–20 to determine the total amount of grant revenue the district received. Reviewed five grants to determine if the San Diego Air District complied with key terms of the grants.
<p>7 Review the San Diego Air District's and county's outreach efforts to solicit public input related to its management of air quality programs. Compare those efforts to those of a selection of other large air pollution districts in California, and also determine the following:</p> <ol style="list-style-type: none"> Whether staff conducting the outreach have appropriate qualifications. The methods used to inform communities about pending permits and enforcement actions in their area. Whether the San Diego Air District has staff or other resources to engage with the public in each of the most commonly spoken languages in the county. The capability of the San Diego Air District to accept and respond to public inquiries and complaints during business and nonbusiness hours. The average length of time it takes for the San Diego Air District to respond to an inquiry or complaint. The frequency with which the San Diego Air District held public meetings in the past four fiscal years and, for a selection of meetings, whether they comply with open meeting laws. 	<ul style="list-style-type: none"> Interviewed staff to identify the district's process for obtaining public input and conducting outreach regarding regional air quality programs. Interviewed CARB and staff from two other local air districts and reviewed publicly available information to identify best practices for soliciting public input regarding air quality programs. Compared the résumé of the district's current outreach staff person to job descriptions for similar positions at two other local air districts and determined that the district's staff member had job experience and education similar to that required of outreach staff at those other local air districts. Reviewed relevant requirements and interviewed staff to determine the district's processes for communicating with the public regarding pending permits and enforcement actions. Interviewed district staff, reviewed district policies, and identified county resources for engaging the public in languages other than English. Reviewed the district's public complaint database for complaints received during fiscal years 2016–17 through 2018–19 and reviewed 10 complaints to determine whether the district complied with key district policies. Reviewed relevant district procedures and interviewed district staff regarding the district's process to investigate public complaints, including its process to track and respond to complaints received during nonbusiness hours and holidays. We found that it has procedures in place to accept complaints during nonbusiness hours and respond to them the following business day. Reviewed state public meeting requirements and judgmentally selected two district board and two advisory committee meetings to review for compliance with applicable public notice requirements and open meeting laws.

AUDIT OBJECTIVE	METHOD
<p>8 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> Reviewed changes in state law that restructure the San Diego Air District’s governing board and require the district to make some information publicly available on its website, including projected actual revenue and expenditures data. Interviewed county and district personnel to determine the status of their efforts to comply with these upcoming changes in state law. In particular, we identified how the district plans to operate independently of the county and assume administrative tasks the county currently provides. Interviewed district staff regarding the district’s plans to ensure that financial data are publicly accessible and transparent. To identify potential best practices in this area, we reviewed the budgets of three other local air districts to identify the levels of detail in their public financial data. Evaluated the district’s public complaint process as part of Objective 7 and interviewed its staff regarding its plans for making complaint information publicly available.

Source: Audit Committee’s audit request number 2019-127, planning documents, and information and documentation identified in the table column titled Method.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of the computer-processed information that we use to support our findings, conclusions, and recommendations. In performing this audit, we relied on the following data and systems:

Public Complaints

We relied on the San Diego Air District’s Business Case Management System (case management system) to calculate various statistics related to the public complaints it received from fiscal years 2016–17 through 2018–19. To evaluate these data, we performed electronic testing of the key data elements. We assessed the accuracy of these data by randomly selecting claims from the case management system and tracing key data elements from each claim to supporting evidence maintained by the district, and we assessed the completeness of the data by determining whether there were gaps in the sequential numbering of the complaint records. We determined that these data were not sufficiently reliable for the purposes of supporting conclusions or recommendations, due to missing records and inaccuracies. Nonetheless, we present calculations from these data in the report because they are used primarily for contextual purposes and represent the best source available.

Financial Activity

We relied on data from the San Diego Air District’s Performance Budgeting System to assess its revenue and expenditures for fiscal year 2018–19. We verified the accuracy of these data by randomly

selecting revenue and expenditure categories from the data and tracing key data elements to supporting documentation, and we found no material errors. To verify completeness of the data, we compared it to the county's audited financial statements for fiscal year 2018–19 and determined that the data were materially complete. Consequently, we found the district's performance budgeting data to be sufficiently reliable for the purposes of analyzing the district's finances. We also used data from this system for fiscal years 2016–17, 2017–18, and 2019–20 for background or contextual information that does not materially affect findings, conclusions, or recommendations. Thus, we determined that a data reliability assessment of those data was not necessary.

Permits

We used data from the San Diego Air District's Business Case Management System, Permitting/Application System of Record to determine the number of permits issued or renewed by fiscal year. Because these data were purely informational and do not materially affect findings, conclusions, or recommendations, we determined that a data reliability assessment was not necessary.

Emissions

We used emissions data from CARB that the San Diego Air District incorporated in its state plan to show, for contextual purposes, the estimated historical and projected future amounts of ozone-causing emissions in the district and the sources of those emissions. Because these data are the output of a modeling system, it was not feasible to evaluate their accuracy or completeness. Consequently, we found these data to be of undetermined reliability for the purposes of establishing the level of ozone-causing emissions in the district. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

Appendix B

THE SAN DIEGO AIR DISTRICT'S BUDGETED EXPENDITURES AND REVENUE FOR FISCAL YEAR 2019–20

Because it currently operates as a county department, the San Diego Air District participates in the county's annual budget process, and the county provides a high-level summary of the district's major expenditures and revenue in the operational plan presented on its website. However, this summary does not provide a clear description of the nature of those expenditures and revenue. Working with additional financial data supplied by the district, we identified more detailed expenditure and revenue categories within the general categories presented in the county budget for fiscal year 2019–20. To provide additional clarity, tables B.1 and B.2 present the district's published expenditures and revenue for fiscal year 2019–20 as well as more detailed information for key categories.

Table B.1

The San Diego Air District's Publicly Reported Budget for Fiscal Year 2019–20 Expenditures Compared to a More Detailed Presentation of Its Budget Information (In Thousands)

PUBLICLY REPORTED COUNTY FISCAL YEAR 2019–20 BUDGET		DISTRICT DATA FOR FISCAL YEAR 2019–20	
Budgeted Expenditures		Budgeted Expenditures	
Salaries and Benefits	\$20,584	Salaries and Benefits	\$20,584
Services and Supplies	6,674	Salaries and Wages	12,242
Other Charges	29,197	Retirement	6,739
Capital Assets Equipment	2,587	Flex Credit	1,603
Fund Balance Component Increases	350	Services and Supplies	6,674
Operating Transfers Out	13,989	County Services	1,314
Total Expenditures	\$73,381	Purchasing Cards	325
		Utilities	233
		Information Technology	1,962
		Vehicle/Transportation	237
		Insurance	32
		Professional and Specialized Services	356
		Outreach	15
		Equipment/General Maintenance	408
		Laboratory	910
		Building/Facilities	367
		Travel/Training/Tuition	206
		Office	309
		Other Charges	29,197
		Grant Distributions (External)	29,177
		Credit Card Administration Fee	20
		Capital Assets Equipment	2,587
		Fund Balance Increases	350
		Operating Transfers Out	13,989
		Operating Transfers Out*	13,339
		Major Maintenance	650
		Total Expenditures	\$73,381

Source: San Diego County Operational Plan for Fiscal Years 2018–19 and 2019–20 and San Diego Air District financial data.

* Operating Transfers Out consists of transfers between divisions within the San Diego Air District.

Table B.2

The San Diego County Air District’s Publicly Reported Budget for Fiscal Year 2019–20 Revenue Compared to a More Detailed Presentation of Its Budget Information (In Thousands)

PUBLICLY REPORTED COUNTY FISCAL YEAR 2019–20 BUDGET			DISTRICT DATA FOR FISCAL YEAR 2019–20	
Budgeted Revenue			Budgeted Revenue	
Licenses, Permits, and Franchises	\$8,580	→	Licenses, Permits, and Franchises	\$8,580
Fines, Forfeitures, and Penalties	1,030	→	Fines, Forfeitures, and Penalties	1,030
Revenue From Use of Money and Property	220	→	Revenue From Use of Money and Property	220
Intergovernmental Revenue	41,717	→	Intergovernmental Revenue	41,717
Charges for Current Services	857	→	Federal Grants	2,484
Miscellaneous Revenue	30	→	State Grants	27,928
Other Financing Sources	13,339	→	Vehicle Registration Fees	11,305
Use of Fund Balance	7,608	→	Charges for Current Services	857
Total Revenue	\$73,381	→	Miscellaneous Revenue	30
			Other Financing Sources*	13,339
			Use of Fund Balance	7,608
			Total Revenue	\$73,381

Source: San Diego County Operational Plan for Fiscal Years 2018–19 and 2019–20 and San Diego Air District financial data.

Note: The district categorizes permit fee revenue differently than the county does. For purposes of the table above, we use the county’s method of categorization, which differs from the approach we used in our analyses of permit fees for fiscal year 2018–19 presented elsewhere in the report.

* Other Financing Sources consists of transfers between divisions within the San Diego Air District.

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June 26, 2020

Elaine M. Howle*
California State Auditor
621 Capital Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Howle:

The San Diego County Air Pollution Control District (District) has reviewed Draft Report 2019-127 (July 2020), which details the audit conducted by the California State Auditor (CSA) in response to a Joint Legislative Audit Committee request. We appreciate the time and effort your office expended in conducting this audit; District staff strove to be responsive and helpful throughout the eight-month process.

Throughout its 65-year history, the District has worked to improve air quality for San Diego residents and has made considerable progress towards achieving clean air and protecting public health. The region currently meets federal health-based standards for five of the six principal air pollutants. Although total ozone-forming emissions have dropped by 58% since 2000, further reductions are necessary to attain the ozone standards throughout the region.

The District recognizes that it can always improve upon its operations, and thus appreciates the opportunity for this independent audit in furtherance of its commitment to continuous improvement. The District will work with its stakeholders and decision-makers to implement all the CSA's recommendations directed to it.

Our willingness to address the CSA's findings is reflected in our specific response to each recommendation, provided in Attachment 1. In fact, District actions to implement the recommendations are already underway as noted. These proactive steps demonstrate the District's commitment to advancing its mission to improve air quality in a way that promotes transparency and inclusion in its decision-making.

For clarity, the District offers additional perspective on the CSA's findings in Attachment 2. These comments provide additional information that may be helpful to the public in considering the findings detailed in the report.

In closing, the District appreciates the thorough and independent evaluation conducted by your office. We look forward to providing 60-day, 6-month, and 1-year responses in order to document the District's progress in implementing the CSA's recommendations.

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* California State Auditor's comments begin on page 57.

Elaine M. Howle

-2-

June 26, 2020

Thank you for the opportunity to provide this response. Please contact me with any questions at robert.reider@sdcounty.ca.gov or 858-586-2705.

Respectfully submitted,



ROBERT C. REIDER
Interim Director/Air Pollution Control Officer

Attachment 1: District Responses to CSA Recommendations

Attachment 2: Additional Perspective and Clarification

Attachment 1 – District Responses to CSA Recommendations

Summary of CSA Recommendations	District Responses
The District should periodically evaluate all available State and federal grants to reduce mobile emissions and notify the board if it decides not to pursue such programs.	The District agrees and will conduct ongoing evaluations of all applicable State and federal grant opportunities and periodically notify the board of any such grants it decides not to pursue.
By December 2020, the District should establish a methodology to calculate the full cost of the permit program, based on actual expenditures and administrative costs, and perform this calculation each year.	The District agrees. The District is in the process of contracting with a consulting firm to help evaluate its cost procedures and provide recommendations on best practices including a methodology for calculating the full cost of the permit program.
The District should monitor the economic impacts of the pandemic on San Diego County's economy and, when conditions allow, propose to the board that it increase fees annually by the maximum percent allowed until the District's revenue from permit fees is equal to the full cost of the permitting program.	The District agrees with the CSA's related findings that State law allows the District broad discretion over its use of vehicle registration fees including offsetting the administrative costs of its permit program and, in doing so, there is less available funding for projects to reduce air pollutant emissions from mobile sources. When conditions allow, the District will work with its stakeholders to develop proposed options for the Board's consideration to adjust permit fees to align the costs and revenues of the permit program.
By January 2021, the District should create and implement a public participation plan that includes both public outreach and public engagement activities.	The District agrees. By January 2021, it will prepare a public participation plan that includes both public outreach and public engagement activities.
The board should publicly deliberate on key issues related to air quality during its regular meetings.	District staff will ensure the board is made aware of this recommendation.
The board should determine whether an advisory committee is still necessary and, if so, it should immediately publicize committee vacancies on its website and in the monthly and annual County reports on committee vacancies and actively seek nominations to fill such vacancies, and ensure that district legal counsel monitors the committee meetings beginning immediately and advise the committee when it does not comply with State public meeting requirements.	<p data-bbox="797 1115 1495 1234">The District agrees with the intent of these recommendations and will ensure the board is made aware of them. District staff will continue to work with the clerk of the board to publicize current vacancies as recommended.</p> <p data-bbox="797 1272 1451 1392">District counsel will attend future meetings of the advisory committee and provide trainings to both District staff and advisory committee members regarding State open meeting requirements and applicable rules of procedure.</p>
By June 2021, the District should establish policies and procedures that require staff to validate the information they enter in the District's database of air pollution complaints, periodically review data accuracy and completeness, establish time frames for staff supervisors to review complaint investigation reports and verify investigators have responded to complaints appropriately and promptly, and establish a process for validating the accuracy of the data entered.	The District agrees. In August 2019, the District began a formal Business Process Reengineering (BPR) effort to evaluate and improve upon the complaint program. This process is expected to culminate in June 2021 and will implement the CSA's recommendations and make additional process improvements.
The District should finalize the District's agreement with the County to continue providing key administrative services as soon as possible.	The District agrees. The proposed services agreement will be considered by both the Board of Supervisors and the Air Pollution Control Board in the summer of 2020.

Attachment 2 - Additional Perspective and Clarification

Permit Fees

- ② The draft report states that the District's board may adopt permit fees by County regulation (page 15, lines 2-3). To clarify, the District's board adopts permit fees by amendments to District Rule 40 (Permit and Other Fees).
- ③

- The District appreciates the CSA's finding that the District's use of vehicle registration fees to support its permitting process is allowable under State law. The District also concurs with the report's findings that mobile source emissions are by far the largest source of emissions which have caused the San Diego region to fail to meet federal ozone standards, and that even if all stationary source emissions were eliminated, the region still would not achieve federal ozone standards. Despite the overwhelming contribution of mobile sources, federal law requires more stringent regulation of stationary source emissions in relation to the District's nonattainment status. The District has thus sought to offset some costs of those regulatory programs with motor vehicle fees as allowed by State law, due to the fact that the District's non-attainment status is driven by motor vehicle emissions.
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Public Engagement

- ⑤ The District appreciates the CSA's acknowledgment that the District employs public workshops for public engagement. District public workshops are noticed to interested parties via email, the District's website, and direct mailing to every permit holder in the region. These workshops are conducted prior to fee adjustments, rule and plan adoptions and amendments. They provide an important opportunity for public input to proposed actions, and for associated District revisions to its proposed actions, prior to consideration by the board. Workshop reports which document all written and verbal comments made on an item are thus an important component of board consideration of an action, and as such these reports are consistently attached to board letters to reflect public comment on an issue. This is in addition to any public comment that may be provided to the board before or during the public hearing. As such, even for items that are adopted by the board on consent, the board and District staff have provided meaningful opportunities for public engagement at all stages of the process, including early in the process so that changes based on public input can be made before any final hearing on the item.
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District Advisory Committee

- ⑦ The District disagrees with the report's finding that the advisory committee has consistently failed to comply with State open meeting laws. As a preliminary matter, the District considers a quorum of that committee to be a majority of members currently appointed to the committee. This interpretation of a quorum is a reasonable interpretation of the resolution establishing the committee, which states that "A majority of the members shall constitute a quorum." Had the governing board intended for this majority to be a fixed number based upon the specified nine seats on the board, it could have specified that five members would constitute a quorum.
- ⑦ Instead, by stating it as a "majority of members," the implication is that the intent was for a quorum to be a majority of members appointed. As such, it is not accurate to say that the committee met without a quorum on all 13 occasions reviewed by CSA.

Attachment 2 - Additional Perspective and Clarification, continued

However, the District also notes that on a few occasions, the committee met without a quorum even according to this definition, and that the minutes for these meetings reflected action taken despite not having a quorum. This is not a violation of State open meeting laws, since the meetings met the procedural requirements of State open meeting laws despite not having a majority of members present, and the meetings were not prohibited serial meetings conducted outside of public view. Additionally, the resolution establishing the advisory committee does allow for reflection of minority reports to the board. For board items for which a majority of the appointed members was not present at the advisory committee meeting, this was reflected in the District's report to the board. And as noted in the draft report, the District board subsequently complied with legal public meeting requirements in taking the actions reviewed by CSA.

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Regardless, the District acknowledges that meeting without a quorum is contrary to the rules of procedure established for this committee, and will ensure that future meeting minutes and associated board letters will reflect whether a quorum was present and whether action was able to be taken as a result. As noted in Attachment 1, the District commits to having its attorney attend future meetings of the advisory committee, and will provide additional trainings for District staff and advisory committee members to ensure compliance with applicable rules of procedure and State open meeting laws. The District also appreciates that a full membership of the committee would increase its ability to reflect a variety of viewpoints. The District will work with its governing board to ensure vacancies are filled, should the new governing board decide to continue the committee in existence.

District Complaint Program

The District appreciates the CSA's acknowledgment that, based upon its review of complaint data from fiscal years 2016-17 through 2018-19, the District began investigating 90% of complaints within one business day. The District acknowledges there are opportunities to improve the quality and accessibility of the complaint program data. While the database stores labor data and inspection reports which extensively document when and how inspectors investigate complaints, limited information is stored in a searchable format. For this reason, in fall of 2019, a team of District staff including inspectors, aides, supervisors, and management, working with an information technology consultant, critically evaluated the District's air quality complaint process using a formal Business Process Reengineering (BPR) framework. Through this effort, the District will implement the CSA's recommendations, institute systematic and procedural controls to ensure data consistency and prevent errors, accelerate processing cycles, promote community engagement, and meet the upcoming requirements set forth by AB 423. This process is expected to culminate in June 2021.

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COMMENTS

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT

To provide clarity and perspective, we are commenting on the response to our audit from the San Diego Air District. The numbers below correspond to the numbers we have placed in the margin of the San Diego Air District's response.

The San Diego Air District's statement that it will continue to work with the clerk of the board to publicize current vacancies does not align with the information it provided to us during the audit. When we interviewed the district's assistant director, he stated that it is not the district's role to seek nominations for the advisory committee and pointed us to the county's process for filling positions on boards, committees, and commissions—as we reference on page 31. Thus, it is unclear what steps the district staff will continue taking. Further, the district's statement on page 55 that it will work with the new governing board leads us to conclude that the district does not plan to take action regarding this issue until the new board is seated in 2021. Therefore, we stand by our recommendation that the district board take immediate steps to fill the vacancies on the advisory committee to involve all of the relevant stakeholders the committee was intended to represent.

During the publication process for the audit report, page numbers shifted. Therefore, the page number and lines cited by the San Diego Air District in its response do not correspond to the page number and lines in the final published audit report.

We have changed the text regarding the adoption of permit fees from "county regulation" to "district rules."

We disagree with the San Diego Air District's position that subsidizing the cost of the permitting process for stationary sources of emissions with vehicle registration fees is an appropriate response to the San Diego region's failure to meet federal air quality standards. As the district—and Figure 6 on page 19—describe, stationary sources contribute a small proportion of ozone-causing pollutants. As a result, subsidizing the costs of the permitting program for stationary sources only addresses a symptom of the underlying problem, which is mobile emissions. Consequently, the district should focus on using these funds to address mobile emissions, which, as we describe on page 22, is the primary cause of the excessive ozone levels in the San Diego region.

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- ⑤ The San Diego Air District does not dispute that it does not have a public participation plan—and on page 53 it indicated that it will implement our recommendation to create such a plan that includes both public outreach and public engagement activities. However, its description of its process for informing stakeholders of workshops illustrates why it should embrace additional methods of public participation. Specifically, the district’s focus on direct mailing the permit holders who operate the stationary sources of air pollution that it regulates and emailing other interested parties contrasts with other air districts’ use of additional methods to encourage public participation, such as social media, which we describe on page 26. Social media represents a low-cost and effective medium that is capable of reaching a broad variety of stakeholders.
- ⑥ The San Diego Air District’s reference to public comments provided to the district board during public hearings is misleading. As we describe on page 29, the district board received only three requests from the public to speak during the meetings that the district board held from fiscal years 2016–17 through 2018–19.
- ⑦ We stand by our conclusion that the district board’s advisory committee failed to comply with state public meeting laws because it did not have a necessary quorum—a majority of members present—at any of the 13 meetings it held from fiscal year 2016–17 through December 2019, as we state on page 32. Although the district states that it considers a quorum to be a majority of the members currently appointed, its perspective is not supported by either the documents the district cites or by state law. The advisory committee’s establishing authority (resolution) plainly defines a quorum. First, it defines the membership: “The Committee shall have nine members.” Second, the resolution specifies the rules under which it will operate: “A majority of the members shall constitute a quorum.” Thus, the resolution’s plain language provides that a majority of the total membership, not a majority of those currently appointed, constitutes a quorum. This interpretation is also consistent with state law and long-standing court decisions.
- ⑧ The San Diego Air District’s assertion that it was not a violation of state public meeting laws for the committee to take action during meetings at which it did not have a quorum is incorrect.¹ We do not assert that a meeting of less than the majority of the members of the advisory committee is prohibited. However, under state public meeting laws, court decisions, and the District’s own establishing

¹ In this report, we use the term *state public meeting laws*, which the district refers to in its response as *state open meeting laws*.

authority, a gathering of less than a majority of the members lacks the legal authority to take official action, even if the number of members present is noted in the minutes.

The San Diego Air District's reference to minority reporting is not relevant to its disagreement with our conclusion. The concept of minority reporting allows a member or members who did not agree with the majority ruling to provide their perspective. However, such reporting does not exempt the advisory committee from the requirement that its recommendations be approved by a majority of a quorum. Moreover, as we indicate on page 33, merely describing to the district board the number of advisory committee members present at a meeting does not allow the advisory committee to deviate from following public meeting laws.

The San Diego Air District's description of our finding is inaccurate and misrepresents the nature of our review. As we describe on page 28, we determined that the district board complied with those aspects of the State's public meeting requirements that we reviewed for a selection of meetings. We did not review whether the district board complied with public meeting requirements during all the specific meetings where it took action subsequent to the recommendations of the advisory committee.

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