



ADMINISTRATIVE CODE

San Diego County Air Pollution Control District

Adopted by the San Diego County Air Pollution Control District Governing Board:
September 12, 2024

SDAPCD BY-LAWS TO ADMINISTRATIVE CODE

Conversion Guide

By-Laws Provision	Administrative Code Provision
1.1.1	1.2
1.1.2	1.3
1.1.3	1.4
1.1.4	1.5
1.2.1	2.1.1
1.2.2	2.1.3
1.2.3	2.1.2(f)
1.2.4	2.1.4
1.3	2.1.5
1.4	2.1.7
1.5	2.1.8
1.6	6.2
1.7	2.1.9
1.8	1.8
1.9	2.2.1
1.10	2.2.2
1.11	2.2.3
1.12	2.2.4
1.13	2.2.5
1.14	2.2.6
1.15	2.2.7
1.16	2.2.8
1.17	2.2.9
1.18	2.3
1.19	2.10
1.20	2.1.10
1.21	5.6
1.22	6.3
1.23.1	1.13
1.23.2	1.14
Attachment A	2.1.2
Attachment B	3.2
Attachment C	Attachment A

Administrative Code Sections
CHAPTER 1: GENERAL POLICIES
<u>1.1 – Operative Date</u>
<u>1.2 – Purpose of SDAPCD</u>
<u>1.3 – Basis of Authority</u>
<u>1.4 – Relationship with County Policies</u>
<u>1.5 - Definitions</u>
<u>1.6 – Reservation of Authorities by the Governing Board</u>
<u>1.7 – Code of Ethics</u>
<u>1.8 – Conflict of Interest Code</u>
<u>1.9 - Equity Statement</u>
<u>1.10 – Language Access</u>
<u>1.11 – Non-Discrimination</u>
CHAPTER 2: GOVERNING BOARD
<u>2.1 – Governing Board</u>
<u>2.2 – Governing Board Meetings</u>
<u>2.3 – Committees</u>
CHAPTER 3: HEARING BOARD
<u>3.1 – Purpose</u>
<u>3.2 – Procedures for Appointment of Hearing Board Members</u>
<u>3.3 – Unexcused Absences</u>
<u>3.4 – Rules of Procedure</u>
<u>3.5 – Compensation and Expense Reimbursement</u>
CHAPTER 4: FINANCE
<u>4.1 – Adoption of Budget</u>
<u>4.2 – Reserves</u>
<u>4.3 – Cost Recovery</u>
<u>4.4 – Procurement and Contracting</u>
<u>4.5 – Sole Source Contracts</u>
<u>4.6 – Annual Audit</u>
<u>4.7 – Acceptance of Grants and Gifts Made to the SDAPCD</u>
<u>4.8 – Grants of SDAPCD Funds</u>
CHAPTER 5: ADMINISTRATION
<u>5.1 – Public Records Act</u>
<u>5.2 – Document Retention</u>
<u>5.3 – Electronic Notice</u>
<u>5.4 – Electronic/Digital Signature</u>
<u>5.5 - Claims Procedure</u>
<u>5.6 – Service of Process</u>
<u>5.7 – California Environmental Quality Act (“CEQA”) Procedures</u>

CHAPTER 6: PERSONNEL
<u>6.1 – SDAPCD Employees</u>
<u>6.2 – Ethical Conduct by SDAPCD Employees</u>
<u>6.3 – Acceptance and Use of Gifts and Donations</u>
<u>6.4 – Ethics Training</u>
<u>Attachment A – SDAPCD Conflict of Interest Code</u>

CHAPTER 1: GENERAL POLICIES

1.1 Operative Date

Except as provided herein, these Policies shall be operative on September 12, 2024. On that date, the San Diego County Air Pollution Control District's SDAPCD By-Laws that existed prior to that date are hereby repealed.

1.2 Purpose of the SDAPCD

The San Diego County Air Pollution Control District ("SDAPCD") is established and organized pursuant to Part 3 of Division 26 of the California Health and Safety Code. The Governing Board of the SDAPCD ("Governing Board") is composed of eleven (11) members appointed as set forth in Health and Safety Code Section 40100.6. Subject to the powers and duties of the California Air Resources Board, the purpose of the SDAPCD is to adopt and enforce rules and regulations to achieve and maintain state and federal ambient air quality standards in all areas affected by emission sources under its jurisdiction, and to enforce all applicable provisions of state and federal law. The SDAPCD has the primary responsibility for the control of air pollution from all sources in San Diego County, other than emissions from motor vehicles.

1.3 Basis of Authority

These Policies supplement the provisions of the Air Pollution Control Law and other applicable laws by providing additional policies and procedures concerning the SDAPCD's governance, internal organization, legal compliance, and other matters addressed in these Policies. Except as stated herein, these Policies do not impose any mandatory duties on SDAPCD Governing Board members, officers, or employees not otherwise imposed by applicable law.

1.4 Relationship with County Policies

As of March 1, 2021, the SDAPCD is no longer legally subject to the Administrative or Regulatory Code of the County of San Diego or subject as an agency or department to policies adopted by the San Diego County Board of Supervisors. However, the SDAPCD contracts with the County for vital support services, and SDAPCD's employees are County employees. Therefore:

- a) In areas in which the SDAPCD relies on the County as a service provider, related County policies and procedures are applicable to the SDAPCD, unless otherwise stated herein, or the service agreement between the SDAPCD and the County otherwise states, or as mutually agreed upon by SDAPCD and the County;
- b) County Policies that address the rights and responsibilities of, or that regulate the behavior of, County employees remain applicable to SDAPCD staff (including Officers) as County employees; and
- c) Except as set out above, County-adopted policies are no longer applicable to the SDAPCD.

1.5 Definitions

Except as otherwise provided in specific sections of these Policies, the following words shall have the following meanings:

- a) Air Pollution Control Law means Division 26 of the California Health and Safety Code

(commencing with Section 39000), the federal Clean Air Act, and their respective implementing regulations.

- b) APCO means the Air Pollution Control Officer appointed by the Governing Board.
- c) Applicable Law means any applicable state or federal statutes, rules, or regulations, including, but not limited to, Air Pollution Control Law and the applicable provisions of the Government Code. Applicable law also includes the SDAPCD's Conflict of Interest Code, attached hereto as Attachment A.
- d) Board or Governing Board means the Governing Board of the SDAPCD.
- e) Clerk means the Clerk of the SDAPCD Governing Board.
- f) SDAPCD means the San Diego County Air Pollution Control District.

1.6 Reservation of Authorities by the Governing Board

The Board specifically reserves for itself the following authorities:

- a) Appointment of boards and committees, and approval of their members' compensation.
- b) Appointment of the APCO and approval of compensation.
- c) Approval of employee compensation which shall be paid at a salary equal to County employees providing the same quality of service. The Governing Board shall approve the number of positions and total salary in SDAPCD's annual budget. SDAPCD's employees shall be compensated consistent with the classifications set forth in the County's compensation ordinance.
- d) Authority to determine the number of personnel employed by the SDAPCD and to create new positions.
- e) Approval of annual budget and any amendments thereto that result in an increase (or decrease) to the total annual budget or that are outside the authority delegated to the APCO to approve.
- f) Approval of contracts or memoranda of understanding that have not been delegated to the APCO per Sections 2.1.7, 4.4(b), or 4.8.
- g) Adoption of rules and regulations.
- h) Adoption of air quality attainment plans.
- i) Adoption of a permit program, including any permit or other fees.
- j) Issuance of an order of abatement for a violation of any air quality order, rule, or

regulation after a notice and hearing provided that this authority does not supersede any authority granted to the Hearing Board or the APCO to also issue orders of abatement.

All other powers, duties, functions, and jurisdictions not specifically detailed in this Section, and that may legally be delegated are hereby presumed to be delegated to the APCO.

1.7 Code of Ethics

Ethical Conduct by SDAPCD employees. It is the policy of the SDAPCD that SDAPCD staff, as County employees, act in accordance with the San Diego County Code of Ethics in the performance of SDAPCD business.

1.8 Conflict of Interest Code

The SDAPCD adopted Conflict of Interest Code, attached hereto as Attachment A is required by the Political Reform Act of 1974 (Gov. Code § 81000 et seq. and implementing regulations). This Code meets the requirements in Section 18730 of Title 2 of the California Code of Regulations. The Conflict of Interest Code applies to Governing Board and Hearing Board members when conducting SDAPCD business, and for SDAPCD employees has the force of law. Violation of this Code is a misdemeanor. The SDAPCD shall publish this Conflict of Interest Code on its website. All SDAPCD employees and Governing Board and Hearing Board members shall comply with the SDAPCD's then-applicable conflict of interest code, as it may be recodified, amended or replaced from time to time.

1.9 Equity Statement

As adopted by the Board on June 9, 2022:

The San Diego County Air Pollution Control District (SDAPCD) is committed to achieving environmental justice and equity by striving towards clean air for all. While we have made important progress in improving air quality for the region as a whole, we recognize that there is more work to be done, especially in communities that have been disproportionately burdened by air pollution because of systemic racism, discriminatory government policies, lack of engagement, and poor access to information and to the decision-making process.

SDAPCD commits to advancing policies, programs, and services that achieve environmental justice and equity. In order to meet this commitment, SDAPCD will provide appropriate resources, timelines, and budget to support staff and enhance public participation. SDAPCD has adopted an Environmental Justice Framework and a Public Participation Plan that will guide the agency in its work to improve information access, promote meaningful public engagement, and address environmental injustices, particularly for under-resourced communities.

1.10 Language Access

As adopted by the Board on December 8, 2022 and amended and restated on September 12 2024:

1.10.1 Introduction

The San Diego County Air Pollution Control District (SDAPCD) believes establishing a Language Access Policy is essential to the success of our mission to engage all members of the public, including limited-English language speakers, with the programs and activities offered by the SDAPCD.

1.10.2 Policy

The purpose of this policy is to establish effective guidelines and procedures for language access services within the SDAPCD. SDAPCD shall ensure the quality and accuracy of language access services provided by SDAPCD as they are critical to providing limited-English language speakers with meaningful access to SDAPCD programs and activities.

The SDAPCD shall provide Language Access Services for languages identified as having a Substantial Number of Limited-English Speaking Persons. Reasonable accommodation will be made to facilitate language access in other languages upon request. All Language Access Services required to be provided pursuant to this Policy shall be provided by the SDAPCD at no cost to the individual.

1.10.3 Purpose

To establish SDAPCD guidelines and procedures for communications with the public in a way that ensures access to limited-English language speakers.

1.10.4 Definitions

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

1. "SDAPCD" means any board, committee, office, department, or division within the San Diego County Air Pollution Control District.
2. "Language Access Services" means services including interpretation or translation services for both verbal and written communication.
3. "Interpretation" means the act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
4. "Translation" is the replacement of written text from one language (source language) into an equivalent written text in another language (target language).
5. "Substantial Number of Limited-English Speaking Persons" means one of the following five languages: Spanish, Tagalog, Chinese, Vietnamese, and Arabic.

1.10.5 Procedure

There are two primary types of language access assistance: oral and written.

1. Written translation. SDAPCD shall take reasonable steps to prioritize translation of vital documents. Classification of a document as "vital" depends upon the importance of each program, information, encounter, or service involved, and the consequence to the individual if the information in question is not provided. The Air Pollution Control Officer shall make the final determination of what documents are "vital" to the SDAPCD.

Documents that may be considered "vital" may include, but are not limited to, certain:

- i. Notices to Comply and Notices of Violation;
- ii. Application forms;
- iii. Public outreach or education materials (including web-based material);
- iv. Letters or notices pertaining to regulatory requirements and policy changes or updates;

- v. Notices of community meetings or other community outreach;
- vi. Notices regarding the availability of language assistance services.

SDAPCD must inform the public of the availability of Language Access Services. When communicating with Limited-English speaking individuals, SDAPCD staff should assess eligibility for Language Access Services during all points of contact including telephone, in-person, mail, and electronic communication.

Additionally, the SDAPCD will provide translation for:

- i. Air Quality Annual Report (in its entirety);
- ii. Budget (Executive Summary only); and
- iii. Hot Spots Annual Report (Executive Summary only);

When possible, the SDAPCD website will include a translation component. This converts the text on the webpage to any of the languages selected. Website translation does not convert the contents of the documents that may be embedded on the website (such as any Word, PDF, Excel files). The Program Coordinator for Government and Public Affairs can be contacted for translation of embedded documents.

2. Oral interpretation. During regularly scheduled SDAPCD Governing Board meetings, oral interpretation services will be provided in Spanish for individual callers as requested. Oral interpretation in additional languages identified as languages with a Substantial Number of Limited-English Speaking Persons in the SDAPCD may be made available upon request to the Clerk of the Governing Board at least 72 hours prior to the meeting.

Reasonable accommodation will be made to facilitate communication in other languages upon request. In addition, reasonable accommodation will be made to accommodate oral interpretation at all other SDAPCD public hearings and meetings upon request to the Clerk of the Governing Board at least 72 hours prior to the hearing or meeting.

Interpretation services to Limited-English Speaking Persons may be provided as determined necessary by SDAPCD. Interpretation services can occur in-person, through a telephonic interpreter, or via internet or video interpreting. Source-language should be faithfully rendered into the target language by conserving all the elements of the original message while accommodating the syntactic and semantic patterns of the target language.

Staff will receive training on the content of this Language Access Policy; how to identify the need for language access services; working with a Limited-English Speaking Person; providing Language Access Service in a culturally sensitive manner; working with an interpreter; and interpretation best practices.

To ensure accuracy, staff are prohibited from using minor children to interpret, absent emergency circumstances.

The public shall be advised of their ability to request an interpreter at no cost to the individual.

1.11 Non-Discrimination

As adopted by the Board on October 13, 2022 and restated on September 12, 2024:

1.11.1 Introduction

The SDAPCD is committed to providing fair and equal access to the activities and programs it administers. This Article is intended to implement a program to ensure compliance with federal nondiscrimination laws and regulations, including Title VI of the Civil Rights Act of 1964 and related statutes.

1.11.2 Policy

It is the policy of the San Diego Air Pollution Control District that no person shall, on the basis of race, color, genetic information, national origin, ethnic group identification, ancestry, sex, sexual orientation, gender identity, gender expression, mental or physical disability, age, income, religion, religious creed (including religious dress and grooming practices), military and veteran status, medical condition, pregnancy, childbirth, breastfeeding and pregnancy related medical conditions, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, request for/participation in the reasonable accommodation process, or any other attribute or belief protected by law, including under Title VI of the Civil Rights Act of 1964 and other related statutes, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any programs or activities it administers.

1.11.3 Purpose

The purpose of this Article is to establish a program of non-discrimination that makes clear that discrimination on the basis of race, color, genetic information, national origin, ethnic group identification, ancestry, sex, sexual orientation, gender identity, gender expression, mental or physical disability, age, income, religion, religious creed (including religious dress and grooming practices), military and veteran status, medical condition, pregnancy, childbirth, breastfeeding and pregnancy related medical conditions, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, request for/participation in the reasonable accommodation process, or any other attribute or belief protected by law, including under the federal Civil Rights Act of 1964 and other related statutes, is prohibited throughout the SDAPCD. The purpose is also to establish an administrative procedure to investigate complaints alleging a person was excluded from participation in, denied the benefits of, or subjected to discrimination from an SDAPCD program or activity, on the basis of a protected class. This policy shall not supersede or replace, and shall not be an alternative to, other requirements under applicable state or federal law.

1.11.4 Definitions

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

1. "Complainant" means individual(s) or other interested parties filing a discrimination complaint under this policy.
2. "SDAPCD" means any board, committee, office, department, or division within the San Diego County Air Pollution Control SDAPCD.

3. "Discrimination" means the unlawful denial of fair and equal access to a program or activity offered, conducted or administered by the SDAPCD based on a protected class, including by:
 - i. The denial of any program benefit;
 - ii. Providing a different level of benefits than provided to other program users;
 - iii. Restricting the benefit or advantage of any program in a manner dissimilar to restrictions placed on program users not within the protected class;
 - iv. Subjecting a person to segregation or separate treatment in any way related to receiving the benefits of the program;
 - v. Denial to any person, or group of people, the opportunity to participate as a member of any planning or advisory body otherwise open to the public in some fashion; or
 - vi. Using criteria or methods of administering its program that has the effect of discriminating against a user, or potential user, of the program offered by SDAPCD.
4. "Protected class" means members of a group possessing a characteristic which cannot be targeted for discrimination including race, color, genetic information, national origin, ethnic group identification, ancestry, sex, sexual orientation, gender identity, gender expression, mental or physical disability, age, income, religion, religious creed (including religious dress and grooming practices), military and veteran status, medical condition, pregnancy, childbirth, breastfeeding and pregnancy related medical conditions, protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), domestic violence victim status, political affiliation, and request for/participation in the reasonable accommodation process, or any other attribute or belief protected by law, including under the federal Civil Rights Act of 1964 and other related statutes.
5. "SDAPCD designated Non-Discrimination Coordinator" is the person appointed by the SDAPCD Air Pollution Control Officer to serve as the Non-Discrimination Coordinator.
6. "Complaint" means any complaint filed by any person alleging exclusion from, participation in, being denied the benefits of, or being subjected to discrimination under any federally assisted SDAPCD program or activity on the basis of their membership in a protected class.

1.11.5 Complaint Process

The SDAPCD will take appropriate steps to ensure that no employee, agent, contractor, or vendor of the SDAPCD intimidates, retaliates, threatens, coerces, or discriminates against any individual for the purpose of interfering with any right or privilege to file a complaint, or because an individual has filed a complaint, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing arising from the complaint. If any beneficiary of a program receiving Federal financial assistance believes that they have been discriminated against on the basis of belonging to a protected class, the beneficiary may exercise their right to file a

complaint. The SDAPCD, through the Air Pollution Control Officer, will develop and maintain procedures for prompt processing and disposition of complaints that allege discrimination on the basis of membership in a protected class. The SDAPCD will maintain records of each such complaint that includes the identification of the complainant by the protected class; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition of the complaint; the date of disposition; and any other relevant information the SDAPCD deems appropriate.

1.11.6 Confidentiality Statement

The SDAPCD strives to protect the confidentiality of the complainant and all participants in the discrimination complaint process to the greatest extent possible and as authorized by law. The nature of this process does not permit absolute confidentiality. The SDAPCD designated Non-Discrimination Coordinator may release information as necessary to resolve this complaint. If a remedial action results in employee discipline, the SDAPCD designated Non-Discrimination Coordinator may release information provided during the complaint process to appropriate SDAPCD personnel and outside parties including independent investigators.

1.11.7 Non-Retaliation

The SDPACD and its contractors and grantees are prohibited from retaliating against any individual for opposing an unlawful policy or practice, or making charges, testifying, or participating in any complaint action under this nondiscrimination policy, or other non-discrimination authorities, including Title VI of the Civil Rights Act of 1964.

1.11.8 Training

The SDAPCD will provide training on this non-discrimination policy and related non-discrimination authorities, including Title VI of the Civil Rights Act of 1964, to its managers, supervisors, and staff.

1.12 Legislative Advocacy

Annually, the Board shall adopt a Legislative Program to identify the legislative priorities of the agency for the upcoming year. The identified priorities will advance the mission of the SDAPCD to protect public health, support SDAPCD's Environmental Justice framework and Equity Statement, advance the AB 617 Community Air Protection Program and the goals identified in the Portside Community Emission Reduction Plan ("CERP") and International Border Community CERP, facilitate attainment of state and federal clean air standards, maximize local control of emissions sources, and ensure adequate funding to meet operational needs. The Legislative Program shall include federal, state, and local legislative priorities, and policy statements regarding federal, state, and local actions that may have an impact on the SDAPCD.

1.13 Severability

It is hereby declared to be the intention of the Board that the sections, paragraphs, sentences, clauses, and phrases of these Policies are severable; and if any section, paragraph, sentence, clause, or phrase of these Policies is declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, and phrases of these Policies.

1.14 Amendments

These Policies and any of their provisions may be amended, supplemented or repealed from

time to time, to the extent otherwise allowed by law. Such amendment, supplement, or repeal shall be accomplished by approval of a resolution or motion of the Board at a duly constituted meeting. Upon the effective date of the resolution or motion, the revised or new sections shall be inserted into these Policies and those for which they are substituted shall be removed.

CHAPTER 2: GOVERNING BOARD

2.1. Governing Board

2.1.1 Composition and Powers

The Governing Board is made up of eleven (11) Members composed of: (a) two members of the San Diego County Board of Supervisors; (b) the Mayor or a City Council member from the City of San Diego; (c) five City Council members, each being from a city within one of the five county supervisorial districts; and (d) three public members appointed in accordance with Section 40100.6(a)(4) of the California Health and Safety Code. The Governing Board shall have all the powers and duties set forth in the applicable Air Pollution Control Law and other applicable laws.

- a) The two members appointed to represent the County of San Diego and the one member appointed to represent the City of San Diego under items (a) and (b) above shall be appointed pursuant to the applicable procedures of the County and City.
- b) The five members representing cities within each of the five supervisorial districts shall be appointed pursuant to the applicable procedures established by the Rules and Regulations of the City Selection Committee of the County of San Diego, as may be amended from time to time. Such rules shall be consistent with the provisions of Section 40100.6(a)(3) of the California Health and Safety Code. Consistent with Section 40100.6(a)(3)(B), no city shall have more than two members appointed under this subsection.
- c) The three public members shall be appointed as described in Section 2.1.2 of this Administrative Code.
- d) Each member shall serve for a term of four years and until that member's successor is appointed.

2.1.2 Procedures for Appointment of Governing Board Public Members

- a) Notices Inviting Applications. Notices inviting applications will be posted on the SDAPCD's website and social media accounts. Other means of notification, including press releases and outreach to interested groups or organizations, may also be used.
- b) Applications. Persons seeking appointment to the Governing Board must file an application, in the form and manner prescribed by the Clerk of the SDAPCD's Governing Board (Clerk), or their designee. The application shall include information stating the applicant's qualifications for the public Board position(s) being sought. Applications shall be due ten (10) days prior to the Governing Board meeting at which appointments will be considered. After the application deadline has passed, the Clerk will forward all timely received applications to the Governing Board and include copies of the applications in the Governing Board's agenda packet (with redactions as appropriate to protect the applicants' home address, phone number, personal e-mail address, or other exempt information under the California Public Records Act).
- c) Qualifications. All public members shall reside within the boundaries of the County of San Diego and shall be appointed on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with the air pollution problems of the San Diego Air Basin.

Specific qualifications for each of the three (3) public Board members, as established by Health & Safety Code Section 40100.6(a)(4)(A)–(C), are as follows:

- i. One public member shall be a physician or public health professional actively practicing within the boundaries of the County of San Diego. The member's specialty shall be in the health effects of air pollution on vulnerable populations.
- ii. One public member shall be a person representing environmental justice interests and who works directly with communities within the boundaries of the County of San Diego that are most significantly burdened by, and vulnerable to, high levels of pollution, including communities with diverse racial and ethnic populations and communities with low-income populations. This member may be a resident of that community and have a demonstrated record of community leadership.
- iii. One public member shall be a person with a scientific or technical background in air pollution, such as an environmental engineer, chemist, meteorologist, or air pollution specialist.

d) Public Hearing and Appointment.

- i. Interviews of applicants will be scheduled as a public hearing held during a properly noticed and open meeting of the Governing Board. The Clerk, or their designee, will ask each applicant to attend the Governing Board meeting and be prepared to make an introductory statement and answer questions from the Board.
- ii. After the Chair opens the public hearing, applicants will be interviewed individually in the following order: (1) applicants for the physician or public health professional member; (2) applicants for the environmental justice member; (3) applicants for the scientific or technical member.
- iii. Following applicant interviews, the Governing Board will receive comments from the general public. After public comment, the public hearing will be closed.
- iv. The Governing Board will then consider the appointment of each of the three (3) public Board members in the order listed above. Each appointment shall be considered separately; the Governing Board will not vote on a slate for multiple positions in the same motion.

The floor will be opened for discussion but, before any motion is made, each Board Member will have an opportunity to state the names of up to three (3) preferred applicants whom they would like the Governing Board to consider for appointment.

After each Board Member has had the opportunity to identify their preferred applicant(s), any Board Member may make a motion to appoint an applicant. The motion will require a second by another Board Member. Following discussion, if any, the Governing Board will vote on the motion to appoint. The motion to appoint must be approved by a majority of the quorum.

- e) Oath of Office. Prior to conducting any business at the Governing Board meeting at which their appointment occurs, or at a subsequent Board meeting, each newly appointed public Board member shall take and subscribe the oath of office. A ceremonial oath of office may also occur.
- f) Vacancies.
 - i. If a public position remains vacant following consideration of appointments by the Governing Board, the application period to fill the position will be automatically extended by an additional fifteen (15) days or for such other time period determined by a majority vote of the Governing Board, and the Governing Board may consider the appointment at an upcoming meeting. Upon the time period being extended, the Clerk's office will receive further applications for future consideration by the Governing Board.
 - ii. If a Board Member ceases to comply with the applicable requirements of the Air Pollution Control Law relating to Board membership (e.g., a city representative ceases to be a city council member, a public member moves outside of the County, etc.), a vacancy shall be declared. If at any time a vacancy occurs on the Governing Board, a replacement shall be appointed in accordance with the Air Pollution Control Law, these Policies, and other applicable procedures governing the vacated position.
 - iii. Consistent with Health & Safety Code Section 40100.6(a)(4), in the event of a vacancy in a public Board member position, other public Board members are not eligible to vote on the appointment to fill the vacancy; only those Board members representing the County of San Diego, City of San Diego, and other cities within San Diego County are eligible to vote on the appointment of public Board members.

2.1.3 Resignation

A Board Member may resign at any time by giving written notice to the Clerk. The notice of resignation may specify a date on which the resignation will become effective.

2.1.4 Compensation and Expense Reimbursement

Each of the three public members of the Governing Board shall receive compensation of \$100 for each day, or a portion thereof, but not to exceed \$1,000 per month, while attending meetings of the Governing Board or any committee of the Governing Board or, upon authorization of the Governing Board while on official business of the SDAPCD, as well as the actual and necessary expenses incurred in performing the member's official duties, or in amounts authorized by the Legislature as provided in Health & Safety Code Section 40010.6(e) or any subsequent legislation. Other members of the Governing Board shall serve without compensation from the SDAPCD, except as may be provided in any subsequent legislation. Compensation may be provided as approved by their appointing agencies, and any such compensation shall be the responsibility of the appointing agency.

- a) The following activities/events are required training for and preapproved for public Board members to receive per diem compensation and expenses pursuant to Government Code Section 53232.2: (1) State-mandated ethics training; and (2) State-mandated sexual harassment avoidance training.

- b) Board members may seek authorization from the Governing Board to attend other functions that constitute the performance of “official business” or “official duties,” which may include but not be limited to, conferences, tours of relevant facilities, legislative roundtables, and public hearings on behalf of the SDAPCD. Board members desiring to attend events of this nature require approval from the Board in order to receive per diem compensation and/or expense reimbursement.
- c) Any expense reimbursement shall comply with the provisions of Government Code Section 53232, et seq., including, but not limited to the following:
 - i. Rates for reimbursement of travel (including mileage), meals, lodging, and other actual and necessary expenses shall be as established in Internal Revenue Service Publication 463 or any successor publication.
 - ii. Any lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available at the time of booking. If the group rate is not available, comparable lodging that meets the other requirements of these provisions shall be used. Government and group rates offered by a provider of transportation or lodging services shall be used whenever available.
 - iii. Any expenses that do not meet the requirements of this section or the Internal Revenue Service reimbursable rates shall be specifically approved by the Governing Board in a public meeting before the expense is incurred.
 - iv. If a Board member chooses to incur additional costs that are above the rates established pursuant to this section and those costs are not otherwise approved by the Governing Board, the Board member shall do so at their own expense.
- d) All reimbursed expenses require itemized receipts to be attached to the expense claim form. If the itemized receipt is not provided by a vendor or is lost, a sufficiently detailed explanation of the expenditure shall be included on the expense claim form and approved by the Governing Board for payment. Alcohol will not be reimbursed. If conference registration includes meals, substitute meals will not be reimbursed.
- e) If expenses are prepaid by the SDAPCD and are not used, the SDAPCD will require reimbursement unless the reason for not attending was due to personal illness or an event that impeded good faith efforts to attend. Such events could include flight or other public transportation delays or cancellations, meeting cancellations or date changes, or sudden events within the SDAPCD which would serve the SDAPCD’s best interest that the individual not be away.
- f) The SDAPCD does not make credit cards available to Board members. Payment for Board expenses will be made through SDAPCD credit cards, purchase orders, checks or reimbursement through accounts payable or payroll.
- g) At the Governing Board meeting following any event or function attended for which per diem or expense reimbursement is paid, the Board member(s) shall briefly report on the event or function or provide a written report. If multiple Board members attended, a joint report may be made.

2.1.5 Board Officers & Liaisons

- a) Chair. Each year, the Governing Board shall elect a Chair from among the Board Members. The Chair shall be the presiding officer at all Governing Board meetings and perform other duties as may be imposed by the Governing Board. In the event of a vacancy, the position shall be filled at the next regular meeting of the Governing Board held after such vacancy occurs or as soon as practicable thereafter.
- b) Vice Chair. Each year, the Governing Board shall elect a Vice Chair from among the Board Members. The Vice Chair shall preside in the absence of the Chair and perform other duties of the Chair in their absence. In the event of a vacancy, the position shall be filled at the next regular meeting of the Governing Board held after such vacancy occurs or as soon as practicable thereafter.
- c) Military Liaison. Each year, the Governing Board shall elect a Military Liaison from among the two Board Members representing the County Board of Supervisors. (Health & Safety Code § 40100.6(g)(2).) The Military Liaison shall serve as the liaison to the United States Navy, the United States Marine Corps, and the United States Coast Guard, and shall report to the Governing Board as necessary to inform the Governing Board of any issues with the permitting, rules, regulations, and planning issues that have the potential to impact the mission of the military.
 - i. Consult with the United States Navy, United States Marine Corps, and the United States Coast Guard to determine the appropriate points of contact for each of those respective branches.
 - i. Direct SDAPCD Staff to meet with each point of contact at least quarterly, on all permitting, rules, regulations, and planning issues that have the potential to impact the mission of the United States Navy, the United States Marine Corps, and the United States Coast Guard, as required.
 - ii. Direct SDAPCD staff to report to the Military Liaison and concerns raised by military installation representatives that cannot be fully addressed by staff.
 - iii. Offer to meet with each military point of contact to discuss any concerns related to permitting, rules, regulations and planning issues that cannot be address by SDAPCD Staff.
 - iv. Provide updates, as needed, to the Governing Board, in the form of a “Military Liaison report” on any issues that have the potential to impact the mission of the military. Comments made to the Military Liaison in the course of the above-described consultation process shall not become part of the administrative record in a rulemaking or other proceeding, unless formally submitted as comments in that proceeding.

2.1.6 Term of Office; Election of Chair, Vice Chair, and Military Liaison

The terms of office of the Chair, Vice Chair, and Military Liaison shall be one year, or until such time as a successor has been elected by the Governing Board. An annual meeting of the Board shall be held in January of each year or as soon as possible thereafter to elect the Chair, Vice Chair, and Military Liaison. Notwithstanding the preceding sentence, the Governing Board may

elect a new Chair, Vice Chair, or Military Liaison at any regular meeting of the Governing Board duly noticed for that purpose. There shall be no limit on the number of terms of the Chair, Vice Chair, or Military Liaison.

2.1.7 Other Officers

- a) Air Pollution Control Officer. The Board shall appoint an Air Pollution Control Officer (“APCO”) for the SDAPCD. Subject to the direction of the Board, the APCO shall appoint SDAPCD personnel, including any deputies necessary for the prompt and faithful discharge of their duties. In the event that the APCO is on vacation, sick or otherwise unavailable, they may designate a deputy to discharge all duties and functions of the APCO during their absence. The APCO shall be responsible for the day-to-day operation and management of the SDAPCD and its functions, as described in Sections 40751-53 of the Health and Safety Code, and to enforce Air Pollution Control Law as authorized, including but not limited to issuing an interim order for abatement as provided for in Health & Safety Code Section 42451.5. The APCO is also authorized by the Board to:
 - i. Commence actions to recover civil penalties for violations of air quality laws. This authority allows the APCO to request that County Counsel initiate enforcement actions to recover civil penalties for violations of APCD Rules and Regulations, and to refer violations to other government agencies as appropriate for civil enforcement or criminal prosecution. This authority also allows the APCO to settle violations of air quality laws, including entering into settlement contracts.
 - ii. Apply for and accept grant funding from State and federal agencies to improve air quality. This authorizes the APCO to apply for and accept other future State and federal grant funding, as it becomes available, to support the APCD's air pollution control program, program-related projects and/or associated activities, and to enter into and comply with any associated agreements or contracts with the funding agencies.
 - iii. Negotiate, execute, and amend future and existing site lease or license agreements, for an annual lease fee not to exceed \$7,500 per site. This authorizes the Air Pollution Control Officer to accept grants and deeds of interest in real property.
 - iv. Implement grant programs in accordance with State and federal grant requirements, including executing grant agreements with grant recipients pursuant to Section 4.8.
 - v. Approve budget amendments that result in appropriation transfers between departmental objects that result in no increase (or decrease) to the total annual budget. Nevertheless, the Governing Board must approve budget amendments that would have actual or potential programmatic impacts. A programmatic impact is defined as a change in program emphasis (e.g., due to shifts in workload or new opportunities), staffing, or method of service delivery from the adopted annual budget.

Except for the purposes of a brief factual inquiry and information, or in the same capacity as any member of the public, neither the members of the Board nor any member of their staff shall contact any SDAPCD employee except through the APCO. Neither the members of the Board nor any member of their staff shall give orders to any SDAPCD employee subordinate to the APCO either publicly or privately.

- b) Clerk of the Governing Board. The Clerk of the Governing Board (“Clerk”), or their designee, shall record all minutes of meetings of the Governing Board, keep the records of the Governing Board, and perform such other duties as may be delegated by the Governing Board. The APCO shall appoint the Clerk.

2.1.8 Ethical Conduct by Board Members

It is the policy of the SDAPCD to maintain the highest ethical standards for its Board Members. The proper operation of the SDAPCD requires that decisions and policy be made within the proper channels of governmental structure, that public office not be used for personal gain, and that Board Members remain objective and responsive to the needs of the public they serve. Accordingly, it is the policy of the SDAPCD that Board Members maintain the highest standard of honesty, integrity, and fairness in carrying out their duties. This Article sets forth the minimum ethical standards to be followed by the Governing Board.

2.1.9 Responsibility of Public Office

Board Members are obligated to uphold the Constitution of the United States and the Constitution of the State of California. Board Members will comply with applicable laws, including but not limited to, laws regulating ethical conduct, including the Political Reform Act of 1974 (Gov. Code § 81000 et seq. and implementing regulations), Government Code Section 1090, et seq., Government Code Section 84308, and any other applicable financial disclosure and open government laws.

2.1.10 Public Statements by Board Members on Behalf of the SDAPCD

Board members may express their personal views or represent the views of their constituencies on any agenda item during Governing Board meetings and may also speak freely on any SDAPCD-related matter of concern to them in other public statements, subject only to Brown Act “serial meeting” and social media limitations. However, Board Members may make public statements on behalf of the SDAPCD only when authorized to do so by a majority of the Governing Board in an open public meeting, or where the Governing Board’s position has been determined in a public meeting and the member’s statements support that position.

2.2 Governing Board Meetings

2.2.1 Meetings; Time and Place

- a) Open Meetings. All meetings of the Governing Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code § 54950 et seq., including any waivers of the provisions thereof pursuant to Executive Order or other applicable law). Board Members may participate in meetings remotely, with full voting rights, to the extent permitted by law.
- b) Regular Meetings. The Governing Board shall hold regular meetings at an interval established by the Governing Board. The date, hour, and place of regular meetings shall be fixed by resolution of the Governing Board.

- c) Special and Emergency Meetings. Special and emergency meetings of the Governing Board may be called in accordance with the provisions of Government Code Sections 54956 and 54956.5, respectively.
- d) Closed Sessions; Confidentiality. Closed sessions may be held during a meeting for the purpose of discussing matters permitted by law to be discussed in closed session, including but not limited to, real estate negotiations, existing or anticipated litigation, liability claims, public employee appointments, evaluations and discipline, and labor negotiations. Closed session items must be briefly described on the posted agenda and the description must state the specific section of the Brown Act authorizing the closed session. The Governing Board shall make pre-closed session and post-closed session announcements or reports as required under the Brown Act. Discussions and information obtained during closed sessions of the Governing Board shall be confidential.
- e) Adjourned Meetings. The Governing Board may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may adjourn the meeting to a time certain in an order of adjournment or until a new meeting can be scheduled. If all Board Members are absent from any regular or adjourned regular meeting, the Clerk may declare the meeting adjourned to a stated time and place and shall cause a written notice of adjournment to be given. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced. A copy of order or notice of adjournment shall be conspicuously posted on the door of the meeting location within 24 hours after the time of adjournment. If the meeting is continued to a time less than 24 hours after the time specified in the order or notice of meeting, a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order was adopted.

2.2.2 Agendas and Agenda Items

- a) Preparation of Agendas. The APCO or a designee shall have the Clerk prepare and issue the agenda for each Governing Board meeting. Agenda items will be generated by the need to conduct the SDAPCD's business in a timely manner. The APCO shall review with the Board Chair (or the Vice-Chair in the absence of the Chair), the agenda for regular meetings of the Governing Board.
- b) Addition of Agenda Items Before a Meeting. Board Members may add a "Board Member Initiated Item" to a future meeting agenda. Board Member Initiated Items are prepared by the requesting Board Member and require no SDAPCD staff time. Board Member Initiated Items must be submitted to the APCO at least ten (10) days prior to the next Board meeting.

In addition, items may be added to a future Governing Board meeting agenda in the following ways:

- i. The Chair provides an express oral direction to the APCO during a Governing Board meeting. If a Board Member disagrees with the Chair's direction, the Board Member may make a motion regarding the addition of the item without discussion of the substance of the item.

- ii. For items requiring staff time, an item shall be added by motion without discussion of the substance of the item.
 - iii. Requests from members of the audience, after being authorized to speak, may be added to a future agenda by a Board Member as a Board Member Initiated Item, as discussed above. If the item requires staff time, the item may be added only by motion without discussion of the substance of the item.
 - iv. The Chair or a majority of the Governing Board may refer items to a committee for further review.
- c) Modification of Agenda Order; Addition of Items During a Meeting. The order of items on the agenda may be modified by the Chair if there is no objection, or by a motion and majority vote of the Governing Board. No action or discussion may be undertaken on any item not appearing on the posted agenda, except as allowed under the Brown Act.
- d) Consent Agenda. The consent agenda shall consist of items which appear to be routine or ministerial in nature on which no Board discussion will be required. Before adopting the consent agenda items, the Chair will ask Board Members whether anyone wishes to move a matter from the consent agenda to the regular agenda. Members of the public may also request to move a matter from the consent agenda to the regular agenda. The Governing Board will then proceed with consideration of the remaining consent agenda items. The consent agenda will be acted upon in one motion without discussion. Items pulled from the consent agenda will be considered immediately following adoption of the remaining consent agenda items, and staff reports will only be given if requested by the Board Member who pulled them or by the Chair if the item was pulled by a member of the public.

2.2.3 Public Comments

The policy of the Governing Board is to permit public participation in Board meetings. Agendas of regular meetings shall provide an opportunity for members of the public to address the Governing Board on any item within the jurisdiction of the SDAPCD which are not on the agenda. Generally, speakers shall be limited to three minutes each, with 30 minutes being provided for non-agenda public comments. If the number of speakers is estimated to exceed the 30-minute period, the Chair may, in their discretion, reduce the time allotted to each speaker, extend the period for non-agenda public comment, or continue the remaining comments to the end of the agenda. For public comments on agenda items, the Chair may reduce the time allotted to each speaker in their discretion.

No person shall address the Governing Board without the permission of the Chair. No person may yield speaking time to another person. However, the Chair may authorize organized group presentations of three or more persons for up to 15 minutes. The Governing Board shall provide at least twice the allotted time to a member of the public who utilizes an official or unofficial interpreter to ensure that non-English speakers receive the same opportunity to directly address the Governing Board.

Any person wishing to speak to the Governing Board on a specific agenda item must file a Request to Speak form with the Clerk prior to the scheduled start time of the meeting (for non-agenda public comments) or prior to the time the item is called for discussion (for specific agenda items). Any person who does not wish to speak to the Governing Board but wishes to

have the record reflect a position in favor or in opposition to an agenda item may do so by indicating the same on the Request to Speak form.

In addition to providing public comments in-person at Board meetings, the Clerk shall provide the ability for members of the public to address the Governing Board remotely via a telephonic or other Internet-based service option at regular meetings. Individuals requesting to speak remotely must follow the same rules as in-person speakers and submit requests to speak through an electronic form.

2.2.4 Agendas and Other Meeting Materials

Agendas and any other writings, when distributed to all, or a majority of all, of the members of the Governing Board in connection with a matter subject to discussion or consideration at an open meeting of the Governing Board, are generally disclosable public records under the Public Records Act and shall be made available upon request without delay, unless exempt from public disclosure as provided under the Brown Act and Public Records Act. (Gov. Code § 54957.5(a).) If a disclosable record relates to an agenda item for an open session of a regular meeting of the Governing Board and is distributed less than 72 hours prior to that meeting, the record shall be made available for public inspection at the time the writing is distributed to all, or a majority of all, of the members of the body at an office or location stated on the agenda. (Gov. Code § 54957.5(b).) The SDAPCD may also post the writing on its website in a position and manner that makes it clear that the record relates to an agenda item for an upcoming meeting.

Disclosable records that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the SDAPCD or a Board Member, or after the meeting if prepared by another person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability by applicable law. (Gov. Code § 54957.5(c).)

If a member of the public attending a meeting desires to provide a hard-copy document to the Governing Board related to an item on the agenda, the person should submit sufficient hard copies of the document to the Clerk as soon as practicable, but no later than the time to provide public comments on the agenda item has expired. If a person desires to provide an e-mail or other electronic document to the Governing Board related to an item on the agenda, or desires to provide a hard-copy document but is not attending the meeting in person, the Clerk must receive the e-mail, electronic document, or sufficient hard copies of the document, at least twenty-four hours before the meeting time to ensure sufficient time to receive, review, and distribute the material to the Governing Board. Later-received materials may still be distributed to the Governing Board before or during the meeting, if feasible.

2.2.5 Order and Procedure at Meetings

All meetings of the Governing Board shall be conducted in an orderly manner designed to accomplish the business of the Governing Board in accordance with applicable law. Except as otherwise provided in these Bylaws, Rosenberg's Rules of Order will be used as a guide to resolve questions of procedure. The Clerk shall serve as parliamentarian.

2.2.6 Motions

Actions of the Governing Board shall be taken by motion as provided in Rosenberg's Rule of Order.

2.2.7 Rules of Debate and Decorum

Debate upon all matters pending before the Governing Board shall be under the supervision of the Chair and conducted in such a manner as to expedite the business of the Governing Board. The Chair shall recognize Members of the Governing Board who desire to obtain the floor to speak in the order that they request to speak. Upon recognition by the Chair, the Board Member shall confine remarks to the item under consideration. A Board Member, once recognized, shall not be interrupted when speaking unless it is to call the Board Member to order or when the interest of the Governing Board requires, as determined by the Chair.

2.2.8 Disruption of Meetings

Placards, banners, signs, flags, or other large objects designed to interrupt or disrupt the orderly conduct of the meeting are not permitted in the Board meeting room. In the event that an individual disrupts, disturbs, impedes or renders infeasible the orderly conduct of the meeting, the chair shall warn the individual and if the disruptive behavior continues, the individual may be removed from the meeting; provided, however, no warning for removal is required if the individual's disruptive behavior constitutes use of force or a true threat of force. In the event any meeting of the Governing Board is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible, and order cannot be restored by taking a recess and/or removal of individuals who are willfully interrupting the meeting, the Chair may order the meeting room cleared and the Governing Board may continue in session. Only matters appearing on the agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. The Governing Board may establish procedures readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

2.2.9 Quorum and Voting

A simple majority of the eleven Board members shall constitute a quorum. No actions may be taken by the Governing Board without a quorum of the Board Members present. Except as otherwise required by law, Board action shall require votes of a majority of the quorum present at the meeting. The consequence of a tie vote shall generally be "no action" taken.

2.2.10 Closed Session

Matters presented by legal counsel in closed session, and related discussions in closed session, are confidential attorney-client communications. In addition, Government Code Section 54963 prohibits Board Members from disclosing confidential information that has been acquired by being present in closed session to a person not entitled to receive it. Board Members, SDAPCD Officers staff, and legal counsel shall maintain the confidentiality of closed session matters, unless the Governing Board authorizes disclosure.

2.3 Committees

2.3.1 Establishment

The Governing Board may establish advisory committees as the Governing Board deems appropriate to assist the Board in carrying out its functions.

2.3.2 Standing Committees

Committees composed of less than a quorum of Board Members with continuing subject matter jurisdiction, or having a meeting schedule fixed by charter, ordinance, resolution, or formal action of the Governing Board, shall be Standing Committees of the Governing Board, and meetings thereof shall be held in compliance with the Brown Act.

2.3.3 Appointment to Standing Committees

For Standing Committees, the Chair shall nominate committee members (including the chair and vice chair of each committee), subject to approval by a majority vote of the Governing Board. If the Governing Board fails to approve the Chair's nomination(s) to a Standing Committee, the Governing Board may entertain a motion for the appointment of committee members. The Chair shall propose appointments to Standing Committees each year as soon as practicable after the election of the Board Chair and Vice Chair.

2.3.4 Removal of Committee Members

The Governing Board may remove a committee member from a committee, with or without cause, by a majority vote of the Governing Board.

2.3.5 Ad Hoc Committees

The Governing Board may establish temporary ad hoc advisory committees that: (a) are only composed of less than a quorum of the Governing Board, (b) have no continuing subject matter jurisdiction, and (c) have no meeting schedule fixed by charter, ordinance, resolution, or formal action of the Governing Board. The Chair shall appoint the members of such ad hoc committees and may designate a chair and vice chair.

2.3.6 Committee Voting

Action by a committee on all matters shall require an affirmative vote of a majority of the members of the committee who are present and voting.

2.3.7 Established Standing Committees

The standing committees of the Governing Board are as follows:

a) **Planning & Policy Committee:**

The Planning and Policy Committee oversees the strategic planning process, including the development of long-term strategic plans and periodic updates, as well as the development of legislative and policy priority guidelines for future Board approval, so that staff may have clear Board direction as to the legislative and policy priorities that are consistent with the SDAPCD's mission and programs. The Planning and Policy Committee also approves position statements on local, state, and federal legislation that may not be identified in the legislative and policy priority guidelines, but that nevertheless advances those priorities, and report those positions to the Governing Board at its next scheduled meeting.

CHAPTER 3 HEARING BOARD

3.1 Purpose

Pursuant to Health and Safety Code Section 40800, the Governing Board shall appoint a Hearing Board consisting of five members, as provided in Health and Safety Code Section 40801. The Hearing Board shall have the power and authority to issue variances under Health and Safety Code Sections 42350 et seq., to issue orders for abatement under Health and Safety Code Sections 42451 et seq., to hear appeals from decisions by the APCO to issue, deny, or suspend a permit under Health & Safety Code Sections 42302 et seq.; to revoke a permit under Health and Safety Code Section 42307, and to take all other actions authorized under other provisions of the Health and Safety Code and related law.

3.2 Procedures for Appointment of Hearing Board Members

- a) Notices Inviting Applications. Notices inviting applications will be posted on the SDAPCD's website and social media accounts at least 30 days prior to the meeting at which the members will be appointed. Other means of notification, including press releases and outreach to interested groups or organizations, may also be used.
- b) Applications. Persons seeking appointment to the Hearing Board must file an application, in the form and manner prescribed by the Clerk, or their designee. The application shall include information stating the applicant's qualifications for the Hearing Board position(s) being sought. Applications shall be due ten (10) days prior to the Governing Board meeting at which appointments will be considered. After the application deadline has passed, the Clerk will forward all timely received applications to the Governing Board and include copies of the applications in the Governing Board's agenda packet (with redactions as appropriate to protect the applicants' home address, phone number, personal e-mail address, or other exempt information under the Public Records Act).
- c) Qualifications. Specific qualifications for each of the five (5) Hearing Board members and their alternates, as established by Health & Safety Code Section 40801, are as follows:
 - i. One member shall be admitted to the practice of law in California.
 - ii. One member shall be a professional engineer registered as such pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).
 - iii. One member shall be from the medical profession, whose specialized skills, training, or interests are in the fields of environmental medicine, community medicine, or occupational/toxicologic medicine.
 - iv. Two members shall be public members.
- d) Appointment.
 - i. Interviews of applicants will be held during a properly noticed and open meeting of the Governing Board. The Clerk, or their designee, will ask each applicant to attend the Board meeting and be prepared to make an introductory statement and answer questions from the Governing Board.

- ii. Applicants will be interviewed individually in the following order: (1) applicants for the attorney member; (2) applicants for the engineer member; (3) applicants for the medical professional member; (4) applicants for the public members.
 - iii. Following applicant interviews, the Governing Board will receive comments from the general public.
 - iv. The Governing Board will then consider the appointment of the Hearing Board members and their alternates in the order listed above. Each appointment shall be considered separately; the Governing Board will not vote on a slate for multiple positions in the same motion.
 - vi. The floor will be opened for discussion but, before any motion is made, each Board Member will have an opportunity to state the names of up to three (3) preferred applicants whom they would like the Governing Board to consider for appointment.
 - vii. After each Board Member has had the opportunity to identify their preferred applicant(s), any Board Member may make a motion to appoint an applicant as a Hearing Board member. The motion will require a second by another Board Member. Following discussion, if any, the Governing Board will vote on the motion to appoint. The motion to appoint must be approved by a majority of the quorum.
 - viii. Subsequently, any Board Member may make a motion to appoint an applicant as an alternate Hearing Board member, following the process described above.
- e) Oath of Office. Prior to conducting any business at next meeting of the Hearing Board, each newly appointed Hearing Board member and alternate Hearing Board member shall take and subscribe the oath of office. A ceremonial oath of office may also occur.
 - f) Vacancies. If a Hearing Board position remains vacant following consideration of appointments by the Governing Board, the application period to fill the position will be automatically extended by an additional thirty (30) days or for such other time period determined by a majority vote of the Governing Board, and the Governing Board may consider the appointment at an upcoming meeting. Upon the time period being extended, the Clerk's office will receive further applications for future consideration by the Governing Board.

3.3 Unexcused Absences

Any Hearing Board member who misses three consecutive meetings or misses non-consecutively one-third of the total number of meetings in any one calendar year shall forfeit their membership. Such forfeiture (i.e., a vacancy) shall be acknowledged by a majority vote of the remaining authorized membership at the next succeeding meeting of the Hearing Board. Also, by a vote of the majority of the remaining authorized membership, the Hearing Board may waive recognition of the forfeiture for cause. Upon recognition of the vacancy, the chair of the Hearing Board shall inform the Clerk to commence the process for a new appointment. If a

midterm vacancy occurs, a new appointee shall serve for the balance of the unexpired term of the Hearing Board member being replaced.

3.4 Rules of Procedure

The Hearing Board shall, as it may deem necessary, adopt, re-adopt, or amend rules of procedure for the conduct of its hearings and other matters before it.

3.5 Compensation and Expense Reimbursement

- a) Hearing Board members shall be compensated at a rate of \$100 per day of service while sitting as a member of the San Diego County Air Pollution Control District Hearing Board in session, or for hearing an emergency variance request while not sitting as a member of the board in session. If service exceeds four (4) hours, compensation shall be \$200.00 for such day.

- b) The following activities/events are required training for and preapproved for Hearing Board members to receive per diem compensation and expenses pursuant to Government Code Section 53232.2: (1) State-mandated ethics training; and (2) State-mandated sexual harassment avoidance training.

CHAPTER 4 FINANCE

4.1 Adoption of Budget

4.1.1 Budget Preparation

No later than the 15th day of January of each year, the APCO shall start the preparation of the budget for submission to the Governing Board.

4.1.2 Adoption by the Governing Board

- a) Notice. No less than thirty (30) days before any Governing Board public hearing on adoption of the budget, the APCO, or their designee, shall prepare and make available to the public a summary of the SDAPCD budget and any supporting documents, including, but not limited to, a schedule of fees to be imposed by the SDAPCD to fund its programs.
- b) Public Hearing to Review the Budget. Not less than two weeks before the public hearing at which the budget is adopted, the Governing Board shall hold a public hearing for the exclusive purpose of reviewing the proposed budget and providing the public with the opportunity to comment upon the proposed budget.
- c) Adoption of the Budget. The Governing Board shall adopt the budget at a public hearing held not less than two weeks after the public hearing to review the proposed budget, but under no circumstances any later than the last day of June. (Health and Safety Code Sections 40130-31.)

4.2 Reserves

Within each budget, there shall be established a committed account within the General Fund that includes, at a minimum, approximately two months of operating expenditure reserves that could be used, if necessary, to maintain core programs and services in cases of unforeseen economic revenue shortfalls and/or unanticipated expenditures, as determined by SDAPCD Management with Governing Board approval.

4.3 Cost Recovery

The SDAPCD will seek to recover the full cost of all services it provides to agencies or individuals outside the SDAPCD organization on a contractual or fee basis or when obtaining grant funding to the maximum extent feasible. Full cost is defined as the sum of direct costs plus internal and external indirect costs.

4.4 Procurement and Contracting

- a) The SDAPCD shall follow all procedures for competitive bidding, awarding, administering, and executing contracts for goods and services, leases, and other similar contractual agreements (collectively referred to herein as "contracts") as provided in this Section. As described in the Agreement between the SDAPCD and the County of San Diego Regarding the Provision of Services and Payment of Costs (COSD Services Agreement), the APCO may utilize the County's Department of Purchasing & Contracting ("DPC") for all procurement activities as needed and comply with any applicable County ordinances and Board of Supervisors policies.
- b) The APCO may execute contracts in an amount that does not exceed five hundred thousand dollars (\$500,000) for goods and services, or five hundred thousand

(\$500,000) for all other types of contracts, including but not limited to professional services contracts, except for grant agreements issued pursuant to section 4.8, below. Contracts in excess of these amounts must be approved by the Governing Board. Any contract amendment that would increase the total contract amount above \$500,000 must be approved by the Governing Board.

- c) Notwithstanding any limitations in this Section, the APCO may execute contracts for goods and services without approval by the Governing Board in the event of a declared state of emergency that causes a need to immediately procure such goods or services to make repairs, to safeguard the lives or property of residents within the SDAPCD jurisdiction or SDAPCD employees or property, or to otherwise protect public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant, equipment, structure, or public work. The APCO may execute such a contract in an expeditious manner to the extent necessary to respond to the emergency; however, if the emergency permits, the APCO shall obtain the approval of the Chair of the Governing Board. The APCO shall report to the Governing Board on the execution of the contract as soon as practicably possible.

4.5 Sole Source Contracts

4.5.1 APCO Authority

The APCO may waive the bidding requirements of any contract or procurement up to \$100,000 and the Governing Board may waive bidding requirements for all other contracts based upon a written documentation justifying a sole-source award based on County of San Diego Board Policy A-87 for a sole source procurement or as described below:

- a) Except for contracts funded in whole or in part with federal funds, written justification for a sole-source award must be provided documenting that:
 - i. The cost of labor for preparation of the described documents exceeds the possible savings that could be derived from such detailed documents; or
 - ii. Public health or property may be endangered by delay; or
 - iii. The desired services are available from only the sole-source based upon one or more of the following reasons:
 - 1) The item is available only from a single source;
 - 2) The unique experience and capabilities of the proposed contractor or contractor team;
 - 3) The project involves the use of proprietary technology; or
 - 4) The contractor has ownership of key assets required for project performance.

- b) Community Support Services: Procurement of community services from a not-for-profit organization, not to exceed an annual value of \$50,000, to provide education and outreach to community members, including individuals, schools, and organizations.
- c) Monitoring Original Equipment Manufacturer (“OEM”) Parts: Procurement of OEM Parts, not to exceed an annual value of \$50,000 per manufacturer, to repair or replace or modify existing monitoring equipment that was originally procured through a competitive procurement and or Governing Board approval and is still within its existing useful life.
- d) Other circumstances exist which in the determination of the APCO require such waiver in the best interests of the SDAPCD. Such circumstances may include but are not limited to:
 - i. Projects involving cost sharing by multiple sponsors
 - ii. Time extension of an existing contract;
 - iii. Projects involving a commitment to multiple project phases;
 - iv. Level-of-effort expert consultation services;
 - v. Performance of SDAPCD work concurrent with local government official duties;
 - vi. Projects requiring compatibility with existing specialized equipment;
 - vii. Cooperative internship programs with accredited colleges and universities;
 - viii. Research and development efforts with educational institutions or nonprofit organizations.
- e) For contracts funded in whole or in part with federal funds, written justification for sole-source award must be provided documenting that awarding a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and that one of the following circumstances applies:
 - i. The acquisition of property or services, the aggregate dollar amount of which does not exceed the Federal government’s micro-purchase threshold;
 - ii. The item is available only from a single source;
 - iii. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - iv. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
 - v. After solicitation of a number of sources, competition is determined inadequate.

4.5.2 Requesting an Exemption to Competitive Procurement

A request for an exemption must be made and approved by the APCO and must be in writing and conform to the following format and include the following information:

- a) Introductory paragraph about the procurement.
- b) Goods and/or services, term period, and estimated value.
- c) Benefits to the SDAPCD.
- d) Why the procurement qualifies for an exemption.
- e) A statement identifying that the proposed amount is reasonable based on previous proposals for similar work, knowledge of the marketplace, or the SDAPCD's independent cost estimate.

4.6 Annual Audit

The APCO shall contract with a certified public accountant to conduct an annual audit of the financial accounts and records of the SDAPCD. The audit shall be conducted in accordance with generally accepted auditing standards for financial audits as specified in the Government Auditing Standards issued by the Comptroller General of the United States. If the annual audit is not prepared, the San Diego County Auditor may authorize the annual audit at the SDAPCD's expense per Government Code Section 26909. A report of the audit shall be submitted to the Governing Board within 30 days of completion and shall be filed with the State Controller's Office, and notice of the completed audit shall be sent to the San Diego County auditor and the U.S. Environmental Protection Agency, within twelve months of the end of the fiscal year under examination. (Gov't Code §§ 26909, 30200)

4.7 Acceptance of Grants and Gifts Made to the SDAPCD

The APCO is authorized to apply for and accept current and future State and federal grant funding, as it becomes available, in order to support the SDAPCD's air pollution control program, program-related projects and/or associated activities, and to enter into, amend, and comply with any associated agreements or contracts with the funding agencies. Further, the APCO is authorized to implement the programs funded by the grants in accordance with all applicable guidelines.

The Governing Board must approve the acceptance of all grants and gifts, except state and federal grant funding, made to the SDAPCD of more than \$50,000 dollars in value. The Governing Board, in its discretion, may approve the acceptance of multiple grants or gifts from a single source or entity in one blanket approval.

4.8 Grants of SDAPCD Funds

The APCO shall ensure that opportunities, qualifications, and criteria for applying for SDAPCD grants are widely publicized, posted on the SDAPCD's website, and provided to any person or entity who requests notice of such information. The APCO shall execute all grant agreements with grant recipients, shall ensure that all grants are implemented as required by the applicable state and/or federal program requirements and shall provide an annual report to the Governing Board documenting grant program implementation for the prior fiscal year.

CHAPTER 5 ADMINISTRATION

5.1 Public Records Act

The Board affirms the principles of public access to SDAPCD records in conformance with the California Constitution, the California Public Records Act, and applicable court decisions. SDAPCD officers and employees will adhere to the principles and procedures established by the California Constitution, the California Public Records Act, and other applicable statutes and court decisions, ensuring that every person who requests access to SDAPCD public records is afforded such access within the confines of the law.

To that end, SDAPCD officers and employees who are responsible for handling of records and requests for records shall:

- a) be familiar with the provisions of this Policy and other relevant SDAPCD policies and procedures as might be enacted or adopted; and
- b) avail themselves of training opportunities as might be presented by SDAPCD Counsel, San Diego County Counsel, or other resources that relate to providing access to records under the California Constitution, the California Public Records Act, other applicable statutes, court decisional law, and relevant SDAPCD rules and regulations.

The Governing Board may also establish rules regarding public access to specific types of information or documents and how the public is to request public records as provided in SDAPCD Rules 175 to 177.

5.2 Document Retention

SDAPCD employees shall retain documents according to the Record Retention Schedule and document management protocols approved by the Governing Board by resolution.

5.3 Electronic Notice

SDAPCD staff may elect to send digital public notice, rather than public notice by mail, for notices that the SDAPCD is required to provide pursuant to the California Health and Safety Code; provided, however, that any member of the public may elect to receive public notice by mail instead by sending a request to the Clerk of the Governing Board by mail or email. Such requests for public notice by mail will expire at the end of the calendar year and must be renewed annually. Members of the public may update their email address with the SDAPCD by sending the new email address to the Clerk by mail or email.

5.4 Electronic/Digital Signature

- a) Definitions: The following definitions apply to this Section:
 - i. "Electronic signature" has the same meaning as in Section 1633.2 of the California Civil Code.
 - ii. "Digital signature" has the same meaning as in Section 16.5 of the California Government Code.
 - iii. "Transaction" has the same meaning as in Section 1633.2 of the California Civil Code.
 - iv. "UETA" means the Uniform Electronic Transactions Act, commencing at Section 1633.1 of the California Civil Code.

- b) Electronic and Digital Signatures Accepted
 - i. In any transaction with the SDAPCD, in which the parties have agreed to conduct the transaction by electronic means, the SDAPCD may use and accept an electronic signature, if the electronic signature complies with the UETA.
 - ii. In any written communication with the SDAPCD, in which a signature is used or required, the SDAPCD may use or accept a digital signature, if the digital signature complies with Section 16.5 of the California Government Code.
 - iii. The APCO or their designee shall determine the documents for which the SDAPCD may use and accept electronic signatures or digital signatures.
- c) Accepted Technologies. The APCO or their designee shall determine acceptable technologies and vendors under this section to ensure the security and integrity of any data and signatures. In determining which technologies and vendors are acceptable for digital signatures, the APCO or their designee shall comply with all applicable regulations, including, but not limited to, ensuring that the level of security used to identify the signer of a document and the level of security used to transmit the signature are sufficient for the transaction being conducted. In addition, to the extent necessary, the APCO or their designee shall ensure that any certificate involved in obtaining a digital signature by the signer is sufficient for SDAPCD's security and interoperability needs.

5.5 Claims Procedure

- a) All claims against the SDAPCD shall be filed with the Clerk of the Governing Board. The SDAPCD shall make available a claims form, which shall be published on the Air SDAPCD's website and available upon request from the Clerk of the Governing Board, for purposes of advancing a claim.
- b) With the approval of County Counsel, the APCO may allow, compromise, or settle a claim or lawsuit against the SDAPCD for an amount not to exceed fifty thousand dollars (\$50,000). The APCO shall report all such resolutions of claims to the Governing Board. Any allowance, compromise or settlement of a claim or lawsuit in excess of fifty thousand dollars (\$50,000) must be approved by the Governing Board.

5.6 Service of Process

Service of summons and complaints against the SDAPCD or against individual Board members or SDAPCD Officers in their official capacity may only be made during regular business hours at the SDAPCD's main office.

5.7 California Environmental Quality Act ("CEQA") Procedures

Pursuant to Public Resources Code Section 21082, the Board shall adopt procedures for the evaluation of projects and the preparation of environmental impact reports and negative declarations required under the California Environmental Quality Act.

CHAPTER 6 PERSONNEL

6.1 SDAPCD Employees

SDAPCD employees are also employees of the County of San Diego and are therefore subject to all personnel policies, practices, and procedures as established by the County Board of Supervisors. All employees are subject to the Rules of the County's Civil Service Commission, and some employment matters may be processed through the County's Department of Human Resources, pursuant to the Services Agreement between the SDAPCD and the County of San Diego.

6.2 Ethical Conduct by SDAPCD Employees

SDAPCD employees serve the public through the SDAPCD's business, and therefore it is expected that each employee act in accordance with the highest ethical standards. At a minimum, SDAPCD employees will comply with all laws and regulations concerning conflicts of interest, transparency, and due process, including, but not limited to, the Political Reform Act and related regulations approved by the Fair Political Practices Commission, Government Code Section 1090, the San Diego County Code of Ethics, the Brown Act, and the Public Records Act.

6.3 Acceptance and Use of Gifts and Donations

Board Members and SDAPCD staff shall conform to the principles set out in County Board of Supervisor's Policy A-112 when accepting and using gifts and donations paid to the SDAPCD which are intended to be used for official SDAPCD business purposes by employees in the performance of their duties including, for example, attendance at job training sessions. When the SDAPCD receives gifts or donations, such as payments for travel, the SDAPCD will designate the employees who will participate in SDAPCD-approved training, the cost of which will be paid by the gifts or donations. Before accepting any gift or donation, the APCO shall determine whether other conditions for the acceptance of gifts and donations set out in Policy A-112 have been met.

6.4 Ethics Training

The following SDAPCD employees are required to take the State-mandated ethics training:

- a) Air Pollution Control Officer
- b) Deputy Director, Air Pollution Control
- c) Chief of Departmental Operations
- d) Chief of Departmental Administrative Services

**SDAPCD
Administrative Code
Attachment A**

**San Diego County Air Pollution Control District
Conflict of Interest Code**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This Code and the attached Appendix, designating positions and establishing disclosure categories, shall constitute the Conflict-of-Interest Code of the San Diego County Air Pollution Control District (District). This Code is effective upon approval by the San Diego County Air Pollution Control District Governing Board.

Individuals holding designated positions shall file their statements of economic interests with the District, which will make the statements available for public inspection and reproduction (Gov. Code Sec. 81008). All statements will be retained by the District.

**APPENDIX
EMPLOYEES DESIGNATED TO DISCLOSE FINANCIAL INTEREST**

LIST OF DESIGNATED POSITIONS	REPORTABLE INTERESTS					
	see FPPC Form 700					
Air Pollution Control District Governing Board Members	A-1	A-2	B	C	D*	E
Air Pollution Control District Hearing Board Members	A-1	A-2	B	C	D*	E
APCD Hearing Board Alternate Members	A-1	A-2	B	C	D*	E
Air Pollution Control Officer	A-1	A-2	B	C	D*	E
Air Pollution Control Civil Actions Investigator	A-1	A-2	B	C	D*	E
Assistant Director, Air Pollution Control District	A-1	A-2	B	C	D*	E
Chief, Departmental Operations	A-1	A-2	B	C	D*	E
Consultant**	A-1	A-2	B	C	D*	E
Deputy Director, Air Pollution Control	A-1	A-2	B	C	D*	E
Program Coordinator	A-1	A-2	B	C	D*	E
Senior Air Pollution Control Engineer	A-1	A-2	B	C	D*	E
Supervising Air Quality Inspector	A-1	A-2	B	C	D*	E

Supervising Air Resources Specialist	A-1	A-2	B	C	D*	E
--------------------------------------	-----	-----	---	---	----	---

* Disclosure for designated employees pursuant to Schedule D, Gifts, shall be limited to gifts with a value of \$50 or more from persons doing business with or regulated by the District.

** The Director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements specified here. Such determination shall include a description of the consultant's or new position's duties and based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Section 81008).