

CONTRA COSTA COUNTY
HAZARDOUS MATERIALS COMMISSION

Thursday, June 28, 2018
4:00 p.m. – 6:00 p.m.

The County Connection
2477 Arnold Industrial Way, Board Room
Concord CA 94520

COMMISSION ACTION MAY BE TAKEN ON ANY ISSUE IDENTIFIED IN THIS AGENDA

The Contra Costa County Hazardous Materials Commission will provide reasonable accommodations for persons with disabilities planning to attend the Hazardous Materials Commission meetings who contact Michael Kent, Hazardous Materials Commission Executive Assistant, at least 24 hours before the meetings, at (925) 313-6587

AGENDA

1. CALL TO ORDER, ANNOUNCEMENTS AND INTRODUCTIONS
2. APPROVAL OF MINUTES: May 24, 2018
3. PUBLIC COMMENT
4. HAZARDOUS MATERIALS PROGRAMS REPORT Randy Sawyer
5. OPERATIONS COMMITTEE REPORT Committee Chair
6. PLANNING AND POLICY DEVELOPMENT COMMITTEE REPORT Committee Chair
7. OLD BUSINESS:
 - a) Consider Recommendations from the Planning and Policy Development Committee Concerning the Regulation of Coal and Petroleum Coke at the Levin Richmond Terminal in Richmond
8. NEW BUSINESS:
 - a) None
9. REPORTS FROM COMMISSIONERS ON MATTERS OF COMMISSION INTEREST Members
10. PLAN NEXT AGENDA
11. ADJOURNMENT

Attachments

Questions: Call Michael Kent (925) 313-6587

Any disclosable public records related to an open session item on a regular meeting agenda and distributed by Contra Costa Health Services to a majority of members of the Hazardous Materials Commission less than 72 hours prior to that meeting are available for public inspection at 597 Center Avenue in Martinez

Contra Costa County
HAZARDOUS MATERIALS COMMISSION

Draft Minutes
May 24, 2018

Members and Alternates Present: Don Bristol, Fred Glueck, Frank Gordon, Steve Linsley, Mark Ross, George Smith, Leslie Stewart, Peter Dragovich (alternate), Lisa Park (alternate), Matt Rinn (alternate)

Absent: Rick Alcaraz, Jack Bean, Jim Payne, Lara DeLaney (represented by alternate), Ralph Sattler, (represented by Alternate),

Staff: Michael Kent, Ellen Dempsey

Members of the Public: Maureen Brennan, Charles Davidson. Ann Punch

1. Call to Order: Commissioner Smith called the meeting to order at 4:15.

Announcements and Introductions:

Michael Kent announced:

- Jack Bean is retiring as Executive Director of the Industrial Association in June, and will be stepping down as their representative on the Commission.
- On June 1st the Environment and Manufacturing committee of the EBLC is hosting a presentation on the Intersect Solar facility starting at 8:15 at the offices of Brown and Caldwell in Walnut Creek.
- The Commission's annual meeting with Supervisor Glover will be on June 7th at 2:00.
- DTSC issued a notice denying a hazardous waste permit renewal for Ecology Control Industries at 255 Parr Blvd. in Richmond.
- The pipeline safety workshops the Commission is co-sponsoring with the Alamo Improvement Association will occur on May 29, 30 and 31st in Alamo, Richmond and Antioch respectively.
- The Environmental Health Department will be hosting a community meeting about the potential disposal of radioactive waste at the Keller Canyon landfill in Pittsburg in June.
- There will be a Creative Land Recycling Conference in Carson on October 24th.

2. Approval of the Minutes:

The minutes of April 26, 2018 meeting were moved by Commissioner Glueck, seconded by Commissioner Smith and passed 8-0-2 with Commissioners Bristol and Rinn abstaining.

3. Public Comments: None

4. Hazardous Materials Programs Report:

Randy Sawyer, Hazardous Materials Program Director was unable to attend, but Ellen Dempsey, Hazardous Materials Specialist provided the following update:

- Con Fire now has a hazmat response vehicle, but it is not fully up and running yet. Hazmat has done training with them, and did a joint response and entry with them for a gas storage issue at an apartment building.
- Hazmat responded to a recent fire at an apartment complex under construction in Concord. They monitored for particulate in the air. They continued to monitor for particulate during the demolition phase, which never triggered an action level.

5. Operations Committee Report:

Commissioner Glueck reported that they developed a process and timeline for soliciting and interviewing applicants for the open Environmental Seat created by the resignation of Commissioner Vedagiri. They also received an update on the progress of the Pharmaceutical Ordinance.

6. Planning and Policy Development Committee Report:

The Committee heard public comment from Maureen Brennan about her concerns with the Draft EIR for the Selby Slag cleanup site in Crockett, which they referred for discussion to the full Commission.

They reviewed the status of brownfield legislation at the state and found that none of the potential brownfield legislation that the committee discussed at their January meeting was sponsored by a legislator this session.

Staff reported that the Board of Supervisors Ad Hoc committee met on May 3rd and heard an updated from the County's consultants on their latest plan to move forward. Cleanup of contaminated sites in the Initiative catch basin is still a priority, but there are no specific plans on the table to move forward. Pittsburg received an assessment grant from the EPA and the county is coordinating with them on it.

Commissioner Smith was not present to discuss a meeting he had in his professional capacity working for with a consultant with the new Economic Development Director and the Sustainability coordinator to discuss cleanup issues in the NWEDI.

The committee reviewed the list of priorities they had developed in January and decided that the next step for their main priorities would be to set up the annual meeting with Supervisor Glover to discuss the NWEDI since it is just getting up and running again to see if he is willing to prioritize brownfield redevelopment.

Commissioner Gordon asked staff to look into whether there is any proposed legislation about redevelopment. He had heard from someone in Jim Fraizier's office that there may be some coming up.

7. Old Business: None

8. New Business:

a) Discussion of Coal and Petroleum Coke Shipments in and out of Contra Costa County

The Commission continued the discussion that was started at the April meeting when there was a presentation by Julia Walsh from the No Coal in Richmond Coalition. Staff reported that the invitation that was extended to Levin Richmond Terminal to discuss the issue with the Commission at this meeting was turned down. Their representative referred the Commission to Regulation 6 Rule 8 being developed by the Bay Area Air Quality Management District to control emissions from bulk material storage areas.

Commissioner Gordon reminded the Commission that in Pittsburg it was the Regional Water Board and the State Lands Commission that pushed the cleanup of the Tesoro Coke Loading facility, not the Air District. That facility eventually closed, but the Koch facility next door is all covered and was considered as the best management practice model for the South Coast Air District when they adopted a rule for bulk loading facilities.

Commissioner Park informed the Commission that Mayor Butt of Richmond introduced an ordinance on May 22nd that would make an uncovered coke or coal loading facility a nuisance. That ordinance was passed by the City Council.

Chairperson Smith referred the issue to the Planning and Policy committee to look at the South Coast rule, the Bay Area Air District proposed rule and the Richmond Ordinance.

b) Presentation on the Clean-up proposal for Selby Slag site in Crockett

Maureen Brennan, who is a concerned resident of the area, began her part of the presentation by explaining that the site is 80% the responsibility of the State Lands Commission and 20% the responsibility of Phillips 66. She feels the draft EIR for the cleanup plan has many inadequacies, and the proposed remediation is not consistent with the State Lands Commission's mission.

She summarized the proposal as removing the cap on the upland area, building a containment wall of sheet metal around the upland area, excavating the remaining slag outside of this area and putting it on the upland area, and then replacing the cap. She felt the project will add toxic airborne materials to the surrounding communities, and the report doesn't include health risk information on the heavy metals that are in the slag. She also felt the Draft EIR also over-estimates the proximity of the nearest neighborhood (2 miles vs actual ½ mile). She said the only mitigation they suggest in the DEIR is watering down and cleaning the trucks daily.

Commissioner Smith asked Commissioner Ross if, in his role as a member of the Air District Board, he could remember an example of a site where there was airborne toxic dust as a result of

excavation. Commissioner Ross said he could not remember such an example, but he would find out if there has been one.

Commissioner Glueck said he thought that at a site like this the workers would have to wear personal protection and they would have to do perimeter monitoring. If the work is done properly, the dust should be controlled. If an exceedance did occur, the site would have to increase their dust mitigation measures.

Ms. Brennan continued by saying the Draft EIR says only one marine species will be affected by the project, but she found another EIR from a project in the same area that said that fish in the area will also be impacted.

Charles Davidson, another local resident, continued the presentation by making the following comments: He thought that the proposed steel wall won't be effective and could corrode; the Phillips 66 outfall which redeposits heavy metals will be influenced by the project; proposed changes at the nearby Phillip 66 Marine terminal will impact the project and the Draft EIR doesn't address the outfall impacts.

Ms. Brennan continued by stating that there are other and better remediations available including a permanent cement wall or phytoplankton remediation. They could also remove the slag and dispose of it off-site.

Ms. Brennan said that she would like the Board of Supervisors to intervene in this case, and she would like the Hazardous Materials Commission to review the Draft EIR and oppose it.

Commissioner Gordon felt that the Commission would have to comment on the Final EIR because the comment period for the draft EIR had already closed. Commissioner Stewart asked if either Ms. Brennan or Mr. Davidson knew when the Final EIR would be published; but they did not.

Commissioner Gordon thought that focusing on which part of the site is owned by Phillips 66 is the wrong approach, but that they should look at the Environmental Justice issues at the site. Mr. Davidson added that the Draft EIR did not have an Environmental Justice section.

Commissioner Linsley observed that this proposed remediation is an example of where a site would be allowed to be "cleaned up" with contamination left in place, which could lead to problems later when someone tries to reuse the property for a new intended use. He thinks this is something the Commission should be concerned about.

The Commission then discussed the best way to proceed and decided that they should look at the Final EIR when it is published to see how it addresses the concerns raised by the residents, and then potentially invite DTSC to attend a Commission meeting to discuss these concerns.

c) Update from Ellen Dempsey, Hazardous Materials Program, on efforts to address seal level rise

Ms. Dempsey reported that in March of 2017 the Bay Conservation and Development Commission (BCDC) completed a report (called Adapting to Rising Tides or ART) about impacts of sea level rise on Contra Costa County. One of action items in that report was to disseminate information to businesses that could potentially be impacted by sea level rise about steps they may want to take to prevent impacts to hazardous materials they store on site. She has developed a draft flyer for Contra Costa businesses that should be done in the fall. She shared the draft flyer with the Commission and Commissioner Gordon recommended she format it as a trifold flyer, and work through the Chambers of Commerce to distribute it to businesses.

She further explained that there is now a regional ART project taking place that is focusing on the impacts on sea level rise on regional transportation systems. She is participating in this process. She also got a \$35,000 grant to study how commodities flow in Contra Costa County could be impacted by sea level rise and flooding. This grant application was supported by CAER.

Finally, she mentioned that BCDC is extending the Contra Costa ART study into far Eastern County, which was not covered in the initial study. This process is starting up in the fall, and she will participate in it as well.

9. Reports From Commissioners On Matters of Commission Interest: None

10. Plan Next Agenda: Further discuss the Coal loading issues, and look at the Final EIR for the Selby Slag site if it is completed in time.

11. Adjournment: The meeting adjourned at 6:00 pm.

Attachment

Item 1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CA, AMENDING SECTIONS 9.22.040 AND 9.22.090 OF THE RICHMOND MUNICIPAL CODE, DEFINING THE OPEN STORAGE AND TRANSFER OF COAL AND PETROLEUM COKE AS A PUBLIC NUISANCE AND PROVIDING REGULATIONS FOR ENCLOSED STORAGE AND TRANSFER, AND DEFINING EXCESSIVE AND GLARING LIGHTS AS A PUBLIC NUISANCE

The City Council of the City of Richmond do ordain as follows:

SECTION 1. Amendment of Chapter 9.22 Public Nuisances

Section 9.22 entitled "Public Nuisances" of the Municipal Code of the City of Richmond is hereby amended to read as follows (underline text indicates insertion):

9.22.010 - Title.

This chapter shall be known as the "nuisance code," may be cited as such, and will be referred to herein as "this chapter."

9.22.020 - Purpose.

- (a) It is the intent of the Council in adopting this chapter to provide a comprehensive method for the identification and abatement of certain public nuisances within the City.
- (b) Provisions of this chapter are to be supplementary and complementary to all of the provisions of the Richmond Municipal Code, state law, and any law cognizable at common law or in equity, and nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right of power of the City to abate any and all nuisances.

9.22.030 - Application.

The provisions of this chapter shall apply generally to all property throughout the City wherein any of the conditions, hereinafter specified, are found to exist; provided, however, that any condition which would constitute a violation of this Code, but which is duly authorized under any City, state or federal law, shall not be deemed to violate this Code.

9.22.040 - Definitions.

The definitions set forth in Section 9.20.010 of this Code shall be applicable to the provisions contained in this chapter. In addition, the following words shall have the following specified meanings:

"Director of Public Health" means the Director of the Health Services Department of Contra Costa County or said Director's designee.

"Junk" means any castoff, damaged, discarded, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, metal, paper, plaster, plaster of Paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, having no substantial market value or requiring reconditioning in order to be used for its original purpose.

Owner. In addition to the definition set forth in Section 9.20.010 of this Code, the term "owner" also means the occupant, lessee, or holder of a beneficial interest in real property, as the case may be.

"Property" means premises.

"Nuisance" shall be defined as set forth in Section 3479 et seq. of the Civil Code.

Definitions relating to the handling and storage of coal or petroleum coke shall be the same as those listed in South Coast Air Quality Management District Rule 1158, as amended.

9.22.050 - Authority—Director of Public Works and Director of Public Health.

- (a) The Director of Public Works, City of Richmond, or such person designated by the City Manager, hereinafter referred to as "Director of Public Works," is authorized and directed to use the provisions of this chapter for the purpose of abating those nuisances which exist as the result of violation of those ordinances for which said Director's department has enforcement responsibility.
- (b) The Director of the Health Services Department of the county, hereinafter referred to as "Director of Public Health," is authorized and directed to use the provisions of this chapter for the purpose of abating those nuisances which exist as the result of violation of those ordinances for which said Director's department has enforcement responsibility.
- (c) As used herein, the terms "Director of Public Works" and "Director of Public Health" shall include the authorized representatives of such Directors and the Fire Chief and his authorized representatives as concerns Sections 9.22.090(a)(5) and 9.22.090(c)(9) of this chapter or any other section of this chapter in which the specified condition or activity poses a fire hazard.

9.22.060 - Right of entry.

To the extent authorized by law, whenever necessary to enforce any provisions of this chapter or whenever the City Manager or his or her designee or the Director has reasonable cause to believe that there exists on any premises any condition which is in violation of this chapter, said Manager or his or her designee or Director may enter on such premises at reasonable times to make inspections.

9.22.070 - Responsibility for proper property maintenance.

- (a) Every owner of real property within the City is required to maintain such property in a manner so as not to violate the provisions of this chapter and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.
- (b) Every occupant, lessee, or holder of any interest in property, other than as owner thereof, is required to maintain such property in the same manner as is required of the owner thereof, and the duty imposed by this section on the owner thereof shall in no instance relieve those persons herein referred to from the similar duty.

9.22.080 - Violation—Penalty.

In addition to all other remedies and penalties available under other sections of this Code or under other laws, any person, firm or corporation, whether owner, lessee, sublessor, sublessee or occupant of any premises who violates the provisions of this Code shall be subject to an administrative citation pursuant to Chapter 2.62 of this Code for each day such violation continues.

9.22.090 - Nuisances specified.

It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises or to permit such premises to be maintained in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

- (1) Generally.
 - (A) Any dangerous, unsightly, or blighted condition which is detrimental to the health, safety or welfare of the public;
 - (B) Any condition in violation of the California Building Code, National Electrical Code, California Mechanical Code, Uniform Housing Code as amended by Health and Safety Code Section 19720.3, California Plumbing Code and Uniform Security Code, Title 24 of the California Code of Regulations, the State Building Standards Code, as adopted by reference in this Code, subject to any amendments, additions or deletions made thereto;
 - (C) Any condition in violation of Chapter 9.24 of this Code (Animal Control Law);
 - (D) Any condition in violation of Chapters 15.04, 15.06 and 15.08 of this Code (Zoning, Sign and Subdivision ordinances);
 - (E) Any condition in violation of Chapter 8.16 of this Code (Uniform Fire Prevention Code);
 - (F) Any condition in violation of any rule, regulation, standard or other requirement of the air pollution control district in which the City lies;
 - (G) Any condition recognized in law or in equity as constituting a public nuisance.
- (2) Buildings or Structures in a State of Disrepair.
 - (A) Any building or structure, or portion thereof, which is structurally unsafe or which constitutes a fire hazard, or which has been abandoned or left vacant for a period of six (6) months or more without work being performed in good faith under building permits to rehabilitate the building or structure proceeding in good faith;
 - (B) Any building or structure, including, but not limited to, walls, fences, signs or retaining walls, which are broken, deteriorated, or substantially defaced (including defacement by markings commonly referred to as "graffiti") so that the disrepair poses a risk of harm to the public or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values;
 - (C) Any building or structure having dry rot, warping or termite infestation or any building or structure on which the condition of the exterior finish has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation so that the disrepair poses a risk to the public or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values.
- (3) Property Inadequately Maintained.
 - (A) The keeping, storage, depositing or accumulation on the premises of any personal property, including, but not limited to, abandoned, wrecked, dismantled or inoperative vehicles, automotive parts or equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, solid waste, rubbish, and debris, which is within the view of persons on adjacent or nearby real property or the public right-of-way and which poses a risk of harm to the public or constitutes visual blight or reduces

the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values; provided, however, that wood and building materials being used or to be used for a project of repair or renovation for which a valid and current building permit has been obtained may be stored for such period of time as is necessary expeditiously to complete the project;

- (B) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials that is visible from the public right-of-way. However, building materials being used or to be used for a repair project or renovation, and for which a valid and current building permit has been obtained, may be stored for such period of time as is necessary expeditiously to complete the project;
- (C) Property on which overgrown, dead or decayed trees, weeds or other vegetation pose a risk of harm to the public, or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values;
- (D) Any parking lot, driveway, sidewalk or path which is cracked or has potholes or other breaks in the surface which poses a risk or harm to the public;
- (E) Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered or otherwise not maintained, resulting in the water becoming polluted by excess bacterial growth or by the presence of garbage, refuse, debris, papers or any other foreign matter or material which creates an unhealthy or unsafe condition;
- (F) Maintenance of property in such a manner that matter, including, but not limited to, smoke, odors, dust, dirt, or debris, is permitted to be transported by wind or water or otherwise upon any street, course, alley, sidewalk or other public property or onto neighboring or adjacent properties so as to pose a risk of harm to the public, or to create a condition which is offensive to the senses or detrimental to the use and enjoyment of nearby properties or reduces nearby property values;
- (G) Failure to install or to maintain landscaping which is required by this Code or which is required by the Richmond Redevelopment Agency for a redevelopment project area;
- (H) Storage of solid waste receptacles or bins in front or side yards or visible from the public right-of-way except where:
 - (i) The layout or configuration of the property and the buildings thereon would impose a hardship upon the property owner seeking to comply with this section, or
 - (ii) Compliance with this section would itself constitute a hazard to public health, safety or welfare.

Any exception granted pursuant to this subsection shall be subject to the review of the Director of Public Works on a periodic basis set by the Director;

- (I) Property on which any condition poses a fire hazard;
- (J) Property on which any condition exists which is likely to harbor rats, vermin or other pests;
- (K) Any vacant lot or undeveloped parcel shall be maintained by the owner to prevent the accumulation of trash, rubbish, garbage, or debris. Upon written notice to the owner of record, by mail to the last mailing address as listed in the County Tax Assessor's records, that the lot or parcel is the site of illegal dumping or contains trash, rubbish or garbage, the owner shall remove all such trash, rubbish, garbage or debris within the time stated in the notice.

- (i) Upon two (2) or more violations of this section within a twenty-four (24) month period, the property owner shall, at the owner's expense, erect a fence around the vacant lot or parcel of sufficient height and strength to prevent illegal dumping and/or the unlawful accumulation of trash, rubbish, garbage, or debris and/or unauthorized entry within thirty (30) days of the second notice of violation. The second notice of violation shall include a notice that a fence is required under this section.
 - (ii) If the property owner, after being given written notice that a fence is required, fails to erect such fence within thirty (30) days of the written notice, the City may apply for an abatement warrant to erect such fence, and upon obtaining the warrant shall erect the fence. All costs of obtaining the warrant and erecting the fence shall, at the City's sole election, be placed on the property as a special assessment lien or collected as a debt against the property owner.
 - (iii) It is unlawful for any person or entity to remove, damage, breach or in any way interfere with a fence erected under this section. The property owner shall at all times properly maintain such fence, including repair or replacement, in the event of damage or deterioration.
 - (iv) The property owner may apply in writing to the City Manager to remove a fence erected under this section in the event the lot is being developed and all necessary grading or building permits have obtained. Such permission shall not be withheld if such permits have been issued or if the lot or parcel is no longer vacant.
- (4) Abandoned or Unsecured Buildings.
- (A) Any building, fence or other structure which is or has been abandoned, boarded up, partially destroyed or permitted to remain in a state of partial construction so that it poses a risk of harm to the public, or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values; provided, however, that no partially constructed, reconstructed or demolished structure shall be considered in a state of partial construction if there exists a valid and current building or demolition permit and substantial work has been done pursuant to such permit within the immediately preceding three months.
 - (B) Any building, structure or other property which is unlocked or unsecured or has broken or missing doors or windows or other glazed openings allowing unauthorized access by the public so as to constitute a potential attraction to children or trespassers or a harbor for vagrants, criminals, or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or other unlawful act.
- (5) Parking and Storage of Vehicles and Equipment.
- (A) Parking or storage of construction equipment or machinery or other industrial or commercial equipment or machinery in any area zoned for residential uses so that it is within the view of persons on adjacent or nearby real property or on the public right-of-way except while excavation, construction or demolition operations covered by an active building or demolition permit are in progress on the property.
 - (B) Parking or storage of motor vehicles, trailers, campers, boats and other mobile equipment in any area not designated as a parking space on the approved site plan.
- (6) Hazardous and Attractive Nuisances.
- (A) Any building, object or condition, whether natural or man-made, which due to its accessibility to the public or due to its potential attraction to children poses a hazard,

- including, but not limited to, abandoned, unsecured, unused or neglected motor vehicles, machinery or equipment, abandoned or unprotected wells, shafts, foundations, or basements, hazardous or unprotected pools, ponds, construction sites, or excavations, and stored chemicals, gas, oil, or toxic or flammable substances;
- (B) Erosion, subsidence, or surface water drainage problems which are hazardous or injurious to the public or to adjacent properties whether caused by grading operations, excavations or fill or as a result of the topography, geology or configuration of the land in its natural state.
- (7) Noise. The emanation of noise of such a loud, unusual penetrating, persistent, raucous or boisterous nature so as to unreasonably disturb, annoy, interfere with or endanger the comfort, repose, health, peace, safety or welfare of neighboring residents of normal sensitivity.
- (8) Vector Control. It shall be a violation of this section for anyone to create, cause, commit, or maintain a public nuisance, which is defined as any one or more of the following:
- (A) Anything that is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of person, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street or highway;
- (B) Any artificial alteration of property, excluding water, from its natural condition, resulting in it supporting the development, attraction, or harborage of vectors, with the presence of vectors in their developmental stages on property being prima facie evidence that the property is a public nuisance;
- (C) Any water that is a breeding place for vectors, with the presence of vectors in their developmental stages in the water being prima facie evidence that the water is a public nuisance; or
- (D) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.
- (9) Any uncovered storage or transfer of coal or petroleum coke shall be deemed a nuisance, and specifically the following shall apply to storage or transfer of coal or petroleum coke:
- (A) All piles of coal or petroleum coke shall be maintained in enclosed storage. The enclosed storage shall be equipped with and use as needed, a water spray system or permitted air pollution control equipment sufficient to control fugitive dust emissions at designed vents and at entrances or exits for material or vehicles.
- (B) Any entrance or exits for coal or petroleum coke or vehicles shall have overlapping flaps, sliding doors or other devices(s) approved by the Director of Public Works, which shall remain closed except to allow vehicles to enter and leave or when people are inside. Material truck and railcar unloading shall be in an enclosed structure that is either equipped with a water spray system to be used as needed to prevent visible dust emissions or vented to permitted air pollution control equipment that is operated during unloading activities. The ends of the structure shall have overlapping flaps that reduce the opening to no greater than 11 feet high by 10 feet wide, sliding doors which shall remain closed except to allow trucks to enter and leave, or other equally effective devices as approved by the Director of Public Works.
- (C) The operator shall only conduct railcar coal or petroleum coke unloading in an enclosed structure that is either equipped with a water spray system operated to prevent visible dust emissions, or vented to permitted air pollution control equipment that is operated during

unloading activities. The ends of the structure shall have overlapping flaps, sliding doors or other equally effective devices as approved by the Director of Public Works, which shall remain closed except to allow the railcars to enter and leave.

- (D) The operator shall pave and maintain as paved, the following areas:
- (1) All ground surfaces within the facility where coal or petroleum coke accumulations routinely occur; and,
 - (2) All roads and vehicle movement areas within the facility that are used for transporting or moving coal or petroleum coke.
- (E) In order to clean roads of accumulations of coal or petroleum coke, the operator shall use a street sweeper to clean any track-in/track-out road and any road inside the facility, used to transport coal or petroleum coke.
- (1) The street sweeping shall be sufficient so that not more than 4 hours elapses between each street sweeper cleaning or after every 100 truck material receipts or dispatches, but not less than one time daily when the facility is open for business.
 - (2) Each 24-hr. day, the day beginning at 12:01 A.M., the operator shall designate and record whether for that day the operator is street sweeping every four hours or every 100 trucks. The record shall show the date and time when street sweeping was performed and the truck count.
 - (3) Facility operators shall begin cleaning up coal or petroleum coke spills of more than three pounds, or that cover more than a square foot, within one hour and continue cleanup operations until the spill is removed.
- (F) The operator shall maintain all areas within the facility free of any accumulation of coal or petroleum coke unless the accumulation is completely covered.
- (G) All conveyors shall be enclosed conveyors.
- (H) The operator shall only load materials into ships through a telescoping loading chute which uses a water spray system, or an air pollution control system, sufficient to control fugitive dust emissions during operations that is extended to within five feet of the top of the pile; or, is at least 5 feet below the hatch opening.
- (I) The operator shall not load coal or petroleum coke into any truck trailer unless it is subsequently and immediately covered, before leaving the facility, in one of the following manners sufficient to prevent material from escaping from the trailer onto the facility property:
- (1) A solid sliding cover on the top of the truck that is kept completely closed, or;
 - (2) A slot-top type cover that reduces the uncovered open surface area by at least 50% and extends above the trailer top edges, without gaps and either the material contained in the trailer is moist material, or a chemical stabilizer is applied to the surface of the coal or petroleum coke in sufficient amounts and concentration so as to prevent fugitive dust emissions during transport; or,
 - (3) A continuous tarp that completely covers the trailer top, and does not contact the coal or petroleum coke within the trailer. In addition, the tarp shall be installed or the trailer constructed to prevent wind from entering over the leading edge of the trailer rim into the interior of the trailer.
- (J) Facility operators shall not load coal or petroleum coke into truck trailers such that a trailer leaks liquid that contains material onto the facility property. If a truck trailer leaks liquid

that contains material onto the facility property, the facility operator shall clean the affected property within one hour with a street sweeper or water.

(K) The operator shall clean all out-going coal or petroleum coke transport trucks, whether loaded or empty, so that:

- (1) Any part of any tractor, trailer or tire exterior surface, excluding the inside of the trailers, are free of all loose coal or petroleum coke in excess of 1 gram per square decimeter or 10 grams total.
- (2) The coal or petroleum coke removed by the truck cleaning operation is collected and recycled or otherwise disposed of so that it does not result in fugitive dust emissions.

(L) The operator shall not cause, or allow the discharge into the atmosphere of, fugitive dust for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 10% opacity (equivalent to 10% opacity under EPA Method 9 or one half of No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines).

(M) Variance from Regulations.¹

- (1) Applications for a Variance. The Facility Owner or Operator may apply to the Planning Commission for a variance from any provision set forth in Section 9.22.090(9)(A)-(L) in accordance with the provisions set forth in 9.22.090(9)(M)(2) below.
- (2) Requirements of the Variance Application. The request for a variance must be in writing and must set forth, in detail, all of the following:
 - a) A statement identifying the provision or requirement from which the variance is requested;
 - b) A description of the process or activity for which the variance is requested, including pertinent data on location, size, and the population and geographic area affected by, or potentially affected by, the process or activity;
 - c) The quantity and types of materials used in the process or activity in connection with which the variance is requested, as appropriate;
 - d) A demonstration that issuance of the variance will not exacerbate a public nuisance or adversely impact the surrounding area, surrounding environment, or surrounding property uses;
 - e) A statement explaining:

¹ Adapted from City of Chicago, Department of Public Health, Article II: Air Pollution Control Rules and Regulations For Control of Emissions from the Handling and Storage of Bulk Material Piles, available at: https://www.cityofchicago.org/content/dam/city/depts/cdph/environmental_health_and_food/RuleRegsContrEmisHStorBulkMatPiles.pdf.

- i) Why compliance with the provisions imposes an arbitrary or unreasonable hardship;
- ii) Why compliance cannot be accomplished during the required timeframe due to events beyond the Facility Owner or Operator's control such as permitting delays or natural disasters; or
- iii) Why the proposed alternative measure is preferable.
- f) A description of the proposed methods to achieve compliance with the provisions and a timetable for achieving that compliance, if applicable;
- g) A discussion of alternate methods of compliance and of the factors influencing the choice of applying for a variance;
- h) A statement regarding the Facility Owner or Operator's current status as related to the subject matter of the variance request.

(3) Criteria for Reviewing Applications.

- a) In determining whether to grant a variance, the Planning Commission will consider public comments received pursuant to 9.22.090(9) (M)(4) and will evaluate the information provided in the application to meet the requirements of 9.22.090(9) (M)(2). Particular consideration will be given to the following information:
 - i) Inclusion of a definite compliance program;
 - ii) Evaluation of all reasonable alternatives for compliance;
 - iii) Demonstration that any adverse impacts will be minimal.
- b) The Planning Commission may deny the variance if the application for the variance is incomplete or if the application is outside the scope of relief provided by variances.
- c) The Planning Commission may grant a variance in whole or in part, and may attach reasonable conditions to the variance to ensure minimization of any adverse impacts. Such reasonable conditions may include, but need not be limited to:
 - (i) Installation and maintenance of a three-sided barrier equal to the height of the material, with no more than fifty percent porosity to provide wind sheltering;
 - (ii) Maintenance and operation of water spray bars, a misting system, water hoses and/or water trucks to control fugitive dust emissions;

- (iii) Application of chemical stabilizer(s) to control fugitive dust emissions;
- (iv) Installation of temporary covers;
- (v) Other fugitive dust emissions control measures consistent with best available control measures on the pile;
- (vi) Submission of regular reports containing testing and sampling data as necessary to determine the likelihood of emission reductions and compliance; and/or
- (vii) Limits on handling, storage, and transport of crushed materials.

- d) A variance may be revoked at any time if the Planning Commission finds that operation of the Facility is exacerbating a public nuisance or otherwise adversely impacting the surrounding area, surrounding environment, or surrounding property uses.
- e) No variance shall be effective for longer than five years after the effective date of Section 9.22.090(9).

(4) Change in Facility Operations. If any part of the Facility's operation that is the subject of the variance expands or changes, then, at least thirty (30) days prior to the expansion or change in operation, the Facility Owner or Operator shall notify the Planning Commission and either a) apply for a new variance or b) notify the Planning Commission of the Owner or Operator's intent to comply with the provision(s) that were the subject of the variance, in which case the variance will automatically terminate.

(5) Notice of Variance Applications. The Planning Commission will not grant any variance under this section until members of the public have had an opportunity to submit written comments on the variance application. Public notice of all variance applications will be provided by publication in a newspaper of general circulation published within the city and by publication on the city's website. The Planning Commission will accept written comments for a period of not less than thirty (30) days from the date of the notice.

(6) Appeal of Decision Granting or Denying Variance. A decision of the Planning Commission granting or denying an application for a variance under Section 9.22.090(9)(M) may be appealed to the City Council within ten (10) calendar days from the date of the decision.

(N) Section 9.22.090 (9) shall be effective one year from the date of adoption.

(10) Energizing any unshielded Class 2 outdoor light source on privately-owned property that results in off-site spill to a Lighting Zone LZ2 or LZ3 or does not comply with Tables 15.04.604.050-D or 15.04.604.050-E. Refer to 15.04.104 and 15.04.604 for definitions.

9.22.100 - Administrative abatement.

- (a) Authority. Whenever an authorized City employee has inspected or caused to be inspected any premises and has found and determined that such premises are in violation of this chapter, and such violation does not warrant a summary abatement under this chapter, an authorized City employee may commence proceedings to cause abatement of the nuisance as provided herein, without limitation as to any other administrative or legal remedies.
- (b) Notice of Violation. Upon determining that premises located in the City are in violation of this chapter, an authorized City employee may issue a notice of violation directed to the record owner and to the occupants, as appropriate, of the premises. The notice of violation shall contain:
 - (1) The name and address of the person, firm, corporation or entity in violation, and the street address and such other description as is required to identify the premises where the violation is present;
 - (2) A statement which specifies the conditions which constitute the nuisance, an explanation of what specific code sections have been violated, and measures necessary to abate the nuisance;
 - (3) An order that the nuisance be abated within a specified time period;
 - (4) The range of administrative, civil and/or criminal actions and monetary penalties, as described herein, that the City may impose for such violations if not corrected;
 - (5) A statement informing the recipient of the name and office telephone number of the person to contact should the recipient desire to explain why he or she believes the premises should not be declared to be a public nuisance and abated. The authorized City employee may rescind or modify the notice of violation based on substantive evidence presented by the recipient; and
 - (6) Service of Notice of Violation. A copy of the notice of violation, shall be served either by personal delivery or by First Class U.S. mail, postage prepaid, upon the record owner at the address as it appears at the County Recorder's Office of Contra Costa County, and upon the occupants of the premises, if any. If neither of these methods result in the notice of violation being served upon the record owner and any occupants after reasonable attempts to serve, a copy of the notice shall be posted on the premises.
- (c) Administrative Citation. If after serving the notice of violation as described in this chapter, the owner or occupants do not timely abate the nuisance specified in the notice of violation, then an authorized City employee may issue an administrative citation directed to the record owner and any occupants of the premises.
 - (1) Service of Administrative Citation. A copy of the administrative citation, shall be served either by personal delivery or by First Class U.S. mail, postage prepaid, upon the record owner at the address as it appears at the County Recorder's Office of Contra Costa County, and upon the occupants of the premises, if any. If neither of these methods result in the administrative citation being served upon the record owner and any occupants after reasonable attempts to serve, a copy of the notice shall be posted on the premises.
- (d) Noncompliance Notice and Order. If after serving the notice of violation the owner and occupants do not timely abate the nuisance(s) specified in the notice of violation, or a notice of violation was served on the owners and occupants within the past twelve (12) months for a substantially similar violation, then an authorized City employee may issue noncompliance notice and order directed to the record owner and to the occupants, as appropriate, of the premises. The noncompliance notice and order shall contain the following:

- (1) The name and address of the person, firm, corporation or entity in violation, and the street address and such other description as is required to identify the premises where the violation is present;
- (2) A statement which specifies the conditions which constitute the nuisance, an explanation of what specific code section have been violated, and measures necessary to abate the nuisance;
- (3) An order that the nuisance be abated within a specified time period;
- (4) A statement informing the recipient of his or her right to appeal the determination to a hearing officer by filing with the Richmond Police Department Code Enforcement Unit within ten (10) calendar days from the date of the noncompliance notice and order, and on a form available from the Richmond Police Department Code Enforcement Unit, a written statement requesting a hearing and providing a factual and specific explanation of: (A) why the premises should not be declared to be a public nuisance and abated, and (B) why the costs of such abatement should not become a special assessment lien against the premises;
- (5) A statement that if the person, firm, corporation or entity fails to abate the violation and nuisance or fails to file on a timely basis a request for an appeal hearing, the noncompliance notice and order shall be final and not subject to judicial review, and all persons served with such noncompliance notice and order shall be deemed to have consented to the abatement of the nuisance and that, at the election of the City, the City will abate the nuisance and the costs of such abatement may be charged against the premises and may be recorded as a special assessment lien against the premises; and
- (6) Service of Noncompliance Notice and Order.
 - (A) Persons Entitled to Service. The noncompliance notice and order shall be served upon the owner of the premises, any occupants of the premises, and any other person, corporation, or entity in violation.
 - (B) Method of Service. Unless otherwise provided in this section, service of a noncompliance notice and order shall be made by personal service or by First Class U.S. Mail, postage prepaid with confirmation of delivery by the U.S. Postal Service. Service on any property owner in violation is deemed complete when it is served or delivered at the address listed by the property owner at the County Recorder's Office of Contra Costa County, or as known to the City official issuing the order. If personal service or service by mail with confirmation of delivery is not reasonably feasible or too cost prohibitive, service of the noncompliance notice and order may be made by posting the order on the subject premises and sending a copy by regular United States mail service. Service posting in the manner herein provided shall be effective on the date of posting. As an alternative, substituted service of the noncompliance notice and order may be made as follows:
 - (C) (i) By leaving a copy during usual business hours at the recipient's business with the person who is apparently in charge, and then mailing a copy by first-class mail to the recipient at the address where the copy was left; or
 - (ii) By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household, and then mailing a copy by first-class mail to the recipient at the address where the copy was left.
 - (D) If the party entitled to service has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in above upon the property manager or rental agency.
 - (E) Substituted service may be made by posting the noncompliance notice and order on the premises and mailing a copy of the noncompliance notice and order to the person,

corporation, or entity in violation at the address of the property on which the violation has occurred or is occurring.

- (F) If the person, corporation, or entity in violation or other person entitled to service cannot be located or service cannot be made as set forth in this section, service may be made by publication in a newspaper of general circulation in Contra Costa County. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

(e) Appeal Hearing.

- (1) Hearing Officer. The appeal shall be heard by a hearing officer appointed by the City Manager or his or her designee to hear administrative appeals. The hearing officer may be a City employee, but in that event the hearing officer shall not have had any responsibility for the investigation, prosecution or enforcement of nuisances under this chapter and shall not have had any personal involvement in the appeal to be heard within the past twelve months.
 - (2) Setting Appeal Hearing. The appeal hearing shall be set by the City Manager or his or her designee, and notice of the appeal hearing shall be sent to the appellant by first class mail at the address provided with the written appeal request. The appeal hearing shall be set for a date no sooner than twenty (20) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least fifteen (15) days before the date set for hearing.
 - (3) Format of Hearing Officer's Decision. The hearing officer shall issue a written decision containing findings of fact and a determination of the issues presented. The hearing officer may affirm, modify or reverse the notice of violation, administrative citation or the noncompliance notice and order.
 - (4) Contents of Hearing Officer's Decision. If it is shown by a preponderance of all the evidence that the condition of the premises constitutes a violation of the Richmond Municipal Code or is a public nuisance as defined in this chapter, the decision shall declare the premises to be a public nuisance and shall order and require the appellant to abate the nuisance not later than ten (10) calendar days after the issuance of the decision or, if ten (10) calendar days is insufficient to abate the nuisance, within such other time as specified by the hearing officer not to exceed sixty (60) days. The decision shall inform the appellant that if the nuisance is not abated within the time specified, the nuisance may be abated by the City in such manner as may be ordered by an authorized City employee and the expense thereof made a special assessment lien upon the property involved. This is in addition to any other legal remedies that the City may choose to compel compliance.
 - (5) Service of the Hearing Officer's Decision. Upon issuance of the decision, the City shall serve a copy on the appellant by first class mail to the address provided by appellant in the written notice of appeal. The hearing officer's decision shall be deemed served three (3) days after the date it is mailed to the address provided by the appellant.
 - (6) Finality of Hearing Officer's Decision. The decision of the hearing officer on an appeal of a noncompliance notice and order shall constitute the final administrative decision of the City and shall not be appealable to the City Council or any committee or commission of the City.
- (f) Failure to Obey Order—Abatement by City. If, after any noncompliance notice and order or any order of a hearing officer made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, an authorized City employee is authorized and directed to cause the nuisance to be abated by City personnel or private contract. Further, an authorized City employee shall obtain a warrant, if required, and thereafter is expressly authorized to enter upon the premises for the purpose of abating the nuisance.

9.22.110 - Abatement by City or owner—Assessment of all costs of abatement against owner or property.

- (a) In the event the nuisance is not abated within the time specified in the notice or, if a hearing is held, within the time specified in the hearing decision, the City may take all necessary action to abate such nuisance, and the owner of such property and/or any other person whose duty was to abolish or abate such nuisance, in addition to incurring penalties as provided herein, shall become personally indebted to the City for the damages, all costs and charges, including all reasonable administrative costs of abatement and enforcement incurred by the City by reason of the existence of the nuisance or the abatement of the nuisance, as set forth in the Master Fee Schedule authorized by Richmond Municipal Code Chapter 2.34. These damages, costs and charges may alternatively be assessed as a lien against the property on which the nuisance existed.
- (b) In the event the nuisance is abated within the time specified in the notice or, if a hearing is held, within the time specified in the hearing, by the owner or anyone acting on behalf of the owner, the owner of such property and/or any other person whose duty was to abolish or abate such nuisance, in addition to incurring penalties as provided herein, shall become personally indebted to the City for the damages, all costs and charges, including all reasonable administrative costs of abatement and enforcement incurred by the City by reason of the existence of the nuisance or the abatement of the nuisance, as set forth in the Master Fee Schedule authorized by Richmond Municipal Code Chapter 2.34. These damages, costs and charges may alternatively be assessed as a lien against the property on which the nuisance existed.
- (c) The City Manager or his or her designee shall keep an itemized account of the expenses incurred by the City in abating violations under this chapter. After the completion of the work of abatement, whether by the owner or by the City, said Manager or his or her designee shall cause an itemized bill of the expenses to be mailed to the owner.
- (d) On a periodic basis as determined by City Manager or his or her designee, said City Manager or his or her designee shall prepare and file with the City Clerk a report and assessment list which identifies all real property at which abatement work was done by the City pursuant to this chapter and for which the owner has not fully reimbursed the City within 30 days of the date of billing. The report and assessment list shall provide a description of the real property at which the work was performed, the expenses incurred by the City and the names and addresses of the persons entitled to notice, as identified in Section 9.22.100(c) of this chapter.
- (e) Upon receipt of the report, the City Clerk shall post a notice of filing of the report in a conspicuous place in the City Hall, with said notice specifying the filing date of the report and assessment list and the time and place when and where the report and assessment list will be submitted to the City Council for hearing and confirmation. The City Clerk shall also mail by first class mail a notice to each property owner identified in the report and assessment, at the address specified in Section 9.22.100(c) of this chapter. Said notice shall provide a description of the real property at which the work was performed, the nature of the work performed, and the expenses incurred by the City in performing the work and shall notify the owner that said costs shall be assessed against the owner or the property unless objection is made by the owner in writing and submitted to the City Clerk at least two days before the hearing. Said notice shall also specify the time and place when and where the proposed assessment will be presented to the City Council for hearing and confirmation. The notice shall be mailed at least 10 days prior to the date of said hearing.
- (f) Any owner who objects to the proposed assessment and who desires to challenge the proposed assessment at the City Council hearing must submit any and all objections in writing to the City Clerk at least two days prior to the date of hearing. The failure of any owner to submit objections to the City Clerk shall constitute a waiver of any such objections.
- (g) At the time and place fixed for hearing and confirming the proposed assessments, the City Council shall hear the same. At such hearing, only those persons who have submitted written objections to the City Clerk will be heard by the Council. At said hearing, the City Council may correct, modify or

eliminate any proposed assessment which it may deem excessive or otherwise incorrect. Thereafter, by vote and resolution, the Council shall confirm each assessment and the amount thereof, as proposed or as corrected and modified, and order that an assessment be made as a personal obligation of the owner or, alternatively, assess it against the property. If the Council orders that an assessment be charged as a personal obligation of the property owner, it shall direct appropriate City personnel to collect the same by use of all appropriate legal remedies. If the Council orders that an assessment be assessed against the property, it shall also direct that the same be recorded on the tax assessment roll and thereafter said assessment shall constitute a special assessment and lien against the property. The special assessment and lien shall be subject to the same penalties as are provided for other delinquent taxes or assessments of the City.

- (h) The City Manager is authorized and directed to pay as a reward, a sum equal to twenty-five (25) percent of the penalty or the fine actually paid by a person cited for violating any provision of this chapter, in the aggregate per case, where a claim for reward is made, for information leading to the arrest and successful collection of a fine or fee.

9.22.120 - Summary abatement.

- (a) If, in the opinion of an authorized City employee or, if a hearing has been requested, the Board of Appeals, there exists a condition on any premises which is of such a nature as to be substantially dangerous to the public health, safety or welfare, which, if not abated, would, during the pendency of the abatement procedures set forth in this chapter, subject the public to potential harm of a serious nature, the same may be abated by the City forthwith without compliance with the provisions of this chapter.
- (b) No summary abatement shall be undertaken unless it shall first be approved by the City Attorney or his authorized representative.
- (c) The cost of summary abatement including all administrative costs of any action taken hereunder, including reasonable attorney's fees, may be assessed against the subject real property as a special assessment lien and/or made a personal obligation of the owner as provided in Section 9.22.110.
- (d) As soon as practicable following completion of the abatement, an authorized City employee shall issue a notice of violation and/or noncompliance notice and order in accordance with this chapter. Persons receiving such notices shall be entitled to all hearing rights as provided in this chapter.

9.22.130 - Abatement of dangerous buildings.

Notwithstanding the procedures set forth in Section 9.22.110 of this chapter, whenever the Director of Public Works has inspected or has caused to be inspected any building or structure and has determined that such building or structure is a dangerous building pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by the State of California and Chapter 6.10 of this Code, abatement of the conditions causing the building to be dangerous shall be undertaken pursuant to the procedures set forth in the Uniform Code for the Abatement of Dangerous Buildings and this Code.

9.22.140 - Vector control—Summary abatement.

Notwithstanding and in addition to any other remedy available under the ordinance codified in this section or other federal, state or local law or regulation, if a public nuisance as defined in this chapter exists and constitutes an immediate threat to public health or safety, the City may summarily and without notice or hearing abate such nuisance at the expense of the persons creating, causing, committing, or maintaining the nuisance. The expense of abatement of the vector nuisance shall be a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with Section 38773.1 or 38773.5 of the California Government Code and Section 9.22.110 of this chapter.

SECTION 2. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3. Effective Date.

This ordinance amendment shall be effective 30 days after passage and adoption. First introduced at a regular meeting of the City Council of the City of Richmond held on _____ and finally passed and adopted at a regular meeting held on _____ by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Clerk of the City of Richmond

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

Attachment

Item 2



AGENDA REPORT

OFFICE OF THE MAYOR

DATE: June 19, 2018

TO: Members of the City Council

FROM: Mayor Tom Butt

SUBJECT: AMENDMENTS TO NUISANCE ORDINANCE RELATED TO CONTROL OF FUGITIVE DUST FROM COAL AND PETROLEUM COKE STORAGE AND TRANSFER AND LIGHTING GLARE

STATEMENT OF THE ISSUE:

On May 22, 2018, the City Council passed an amendment of the Nuisance Ordinance relating to open storage of coal and petroleum coke. There needs to be a new first reading to add a provision for granting of a variance by the Planning Commission. This proposed amendment also defines as a nuisance a violation of the Zoning Ordinance pertaining to outdoor lighting direct glare and excessive lighting.

RECOMMENDED ACTION:

INTRODUCE an ordinance (new first reading) amending Chapter 9.22 Public Nuisances of the Richmond Municipal Code to require enclosure of coal and petroleum coke storage and transfer facilities and defining excessive and glaring lighting as a nuisance.

FINANCIAL IMPACT:

There is no financial impact related to this item at this time.

DISCUSSION:

Uncovered coal and petroleum coke stockpiles emit fine particulate pollution, PM2.5 or smaller, when exposed to wind. When coal and petroleum coke are unloaded from trucks or railroad cars and transported to storage piles or transported from storage piles into ships, fugitive particulate emissions also occur.¹

¹ <https://content.sierraclub.org/creative-archive/sites/content.sierraclub.org/creative->

Exposure to fine particulate pollution has been linked to increased deaths and illnesses due to cardiovascular and respiratory conditions. Economists often are asked to place a dollar value on this pollution-induced increase in mortality rates. To do this, the Environmental Protection Agency (EPA) assigns a monetary value to a "statistical life." The agency typically uses this "value of statistical life" approach to quantify the benefits of the environmental regulations that reduce local air pollution.

For example, in 1990, Congress amended the Clean Air Act to limit emissions of sulfur dioxide and nitrogen oxides, which are major sources of fine particulates. The EPA estimates that these limits will prevent roughly 230,000 adult deaths due to fine particles just in the year 2020. Using a value of US\$9.85 million per statistical life, this translates into \$2.3 trillion in total benefits in 2020 just from reduced mortality from particles. Overall, EPA calculates that the total benefits from the 1990 Clean Air Act Amendments from 1990 through 2020 exceed the costs of complying with the law by a factor of more than 30 to 1.

Using this same approach, Akshaya Jha of Carnegie Mellon University² found that in addition to the social costs of particulate pollution from burning coal, storage and handling creates PM2.5 pollution that generates additional local health costs of about \$183 per ton of coal stored. For context, in 2017, 1,159,386 metric tons of coal was stored and transported via ship from Richmond. That's an adverse economic impact to Richmond residents valued at over \$212 million.

The coal industry is subject to many environmental regulations. There are laws and rules that address the impacts of current mining operations and abandoned mine sites; air pollution from coal combustion; and disposal of the ash left over after coal is burned.

In contrast, there is no federal legislation explicitly targeting fine particulate emissions from coal storage and handling. However, since this air pollution is quite local, cities and counties can take action to mitigate it instead of relying on state or federal policy. In California, the South Coast Air Quality Management District adopted Rule 1158 – "Storage, Handling, and Transport of Coke, Coal and Sulfur," in 1983, and it has been amended several times since.

The Richmond City Council has already banned coal and petroleum coke export from City-owned marine terminal facilities, but there currently no local regulations for coal and petroleum coke storage and handling at privately-owned Richmond terminals.

archive/files/pdfs/100_306_LouisianaExports_FactSht-03_lowres.pdf

² <http://www.chicagotribune.com/sns-even-when-its-sitting-in-storage-coal-threatens-human-health-80865-20170914-story.html>; <http://theconversation.com/even-when-its-sitting-in-storage-coal-threatens-human-health-80865>; <https://www.sciencedaily.com/releases/2017/07/170705133025.htm>

To protect the health of people who live and work in Richmond, particularly those in disadvantaged communities, an amendment to the Nuisance Ordinance that address storage transfer of coal and petroleum coke is required. The recommended amendment incorporates pertinent portion of the South Coast Air Quality Management District adopted Rule 1158. A period of one year is provided for operations involving coal or petroleum coke to come into compliance.

A process for granting a variance to allow flexibility for compliance of coal and petroleum coke handling facilities to comply needs to be added.

The purpose of Article 15.04.604 of the Richmond Zoning Code is to control outdoor lighting in order to maintain adequate visibility and safety conserve energy, and protect against direct glare and excessive lighting. Light emitted by a lighting installation that shines beyond the boundaries of the property on which the installation is sited is known as "light trespass" and has health and environmental effects that can be detrimental to human health and wildlife. Of particular concern are lamps with strong blue emissions, such as Metal Halide and white LEDs.

DOCUMENTS ATTACHED:

Chapter 9.22 Public Nuisances Ordinance Amendments – MARK-UP

Chapter 9.22 Public Nuisances Ordinance Amendments – CLEAN

South Coast Air Quality Management District Rule #1158

Attachment

Item 3

**REGULATION 6
PARTICULATE MATTER-
RULE 1
GENERAL REQUIREMENTS
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**REGULATION 6
PARTICULATE MATTER
RULE 1
GENERAL REQUIREMENTS**

~~(Renumbered and Renamed December 5, 2007)~~

6-1-100 GENERAL

6-1-101 Description: -The purpose of this Regulation is to limit the quantity of particulate matter in the atmosphere through the establishment of limitations on emission rates, emission concentrations, visible emissions and opacity.

6-1-102 Applicability of General Provisions: The general provisions and definitions in Regulation 1 and Regulation 6 shall apply to this rule.

6-1-110 Exemptions for Activities Subject to Other Rules and Regulations:

110.1 ~~, Temporary~~ Sandblasting Operations: The provisions of this rule shall not apply to Temporary Sandblasting operations ~~are exempt from the provisions of this Rule.~~ Such operations are subject to the provisions of Regulation 12, Rule 4.

(Adopted July 11, 1990)

110.2 Exemption, Open Outdoor Fires: -The provisions of this rule shall not apply to emissions arising from open outdoor fires. Such open outdoor fires are subject to the provisions of Regulation 5.

(Adopted December 19, 1990)

110.3 Wood Burning Devices: The provisions of this rule shall not apply to sources subject to the provisions of Regulation 6, Rule 3.

110.4 Metal Recycling and Shredding Operations: The provisions of this rule shall not apply to sources subject to the provisions of Regulation 6, Rule 4.

~~**6-1-111 Exemption, Open Outdoor Fires:** The limitations of this rule shall not apply to emissions arising from open outdoor fires.~~

6-1-111 Limited Exemption, Blasting Operations: Blasting operations that have been permitted by the California Division of Industrial Safety are not subject to Sections 6-1-307 and 6-1-506.

6-1-112 Limited Exemption, Portland Cement Manufacturing: Sections 6-1-307, 310 and 311 shall not apply to particulate emissions from sources subject to the provisions of Regulation 9, Rule 13.

6-1-113 Limited Exemption, Total Suspended Particulate (TSP) Concentration and Weight Limitations: Sections 6-1-310.2, 311.2 and 504 shall not apply to particulate matter emissions from the following sources:

113.1 Commercial cooking equipment subject to the provisions of Regulation 6, Rule 2.

113.2 Salt processing operations whose TSP emissions are greater than 99 weight percent salt.

6-1-114 Limited Exemption, Total Suspended Particulate (TSP) Emission Limits for Fuel Combustion: Sections 6-1-310.2 and 311.2 shall not apply to particulate matter emissions from the following sources:

113.3 Gas-, liquid- and solid-fuel fired indirect heat exchangers, including furnaces, heaters, boilers, gas turbines and supplemental fuel-fired heat recovery steam generators, but excluding Carbon Monoxide Boilers downstream of Petroleum Refinery Fluid Catalytic Cracking Unit regenerators.

113.4 Section 6-1-504 shall not apply to gas-fuel fired indirect heat exchangers. Liquid- and solid-fuel fired indirect heat exchangers shall remain subject to Section 6-1-504.

6-1-115 Limited Exemption, Total Suspended Particulate (TSP) Concentration Limitation:
Section 6-1-310.2 shall not apply to particulate emissions from Central Contra Costa Sanitary District, Facility 907, until July 1, 2025.

6-1-200 **DEFINITIONS**

6-1-201 Active Operations: As defined in Regulation 6-201, any activity with the potential to create particulate emissions from any source or fugitive dust emissions.

6-1-202 Bulk Material: As defined in Regulation 6-202, any unpackaged sand, soil, gravel, aggregate, solid construction material, solid industrial chemical or other unpackaged solids less than 2 inches in length or diameter.

6-1-203 Bulk Material Site: As defined in Regulation 6-203, any site with one or more stockpiles of bulk material greater than 5 feet high or with a footprint greater than 100 square feet.

6-1-204 Exhaust Gas Volume: –The volume of gases discharged from an operation or an emission point, corrected to standard conditions (as defined in Regulation 1-228), excluding water vapor or steam.

6-1-205 Particle: A minute quantity of solid matter or liquid droplet.

~~**6-1-202** Particulate Matter: Any material which is emitted as liquid or solid particles, or gaseous material which becomes liquid or solid particles at the testing temperatures specified in the Manual of Procedures, excluding uncombined water.~~

6-1-203 Process Weight: –The total weight of all material introduced into an operation, including solid fuels and process air, but excluding (i) liquids and gases used solely as fuels, (ii) air that is not consumed as a reactant, (iii) air that is used only for dilution, and (iv) combustion air.

6-1-204 Process Weight Rate and Exhaust Gas Rate: –A rate established as follows:

204.1 For continuous or long-run, steady-state operations, the total process weight or exhaust gas volume for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portions thereof.

204.2 For cyclical or batch operations, the total process weight or exhaust gas volume for a period which that covers a complete operation or an integral integer number of cycles, divided by the hours of actual process operation during such period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this section, that interpretation which results in the minimum value for allowable emission shall apply.

6-1-208 Regulated Bulk Material Site: A bulk material site that (i) produces, handles, loads, unloads, stores or uses more than 10 tons per year of bulk materials; and (ii) is subject to an authority to construct and/or permit to operate issued by the Bay Area Air Quality Management District.

6-1-209 Workday: As defined in Regulation 6-209, any period, typically 8 – 12 hour shifts, when active operations occur on the site.

6-1-300 **STANDARDS**

6-1-301 Ringelmann No. 1 Limitation: –Except as provided in Sections 6-1-303, 304 and 306, a person shall not emit from any source for a period or aggregate periods aggregating of more than three minutes in any hour, a visible emission that which is as dark or darker than No. 1 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to an equivalent or greater degree.

(Amended July 11, 1990)

6-1-302 Opacity Limitation: –Except as provided in Sections 6-1-303, 304 and 306, a person shall not emit from any source for a period or aggregate periods aggregating of more Bay Area Air Quality Management District

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than three minutes in any hour an emission equal to or greater than 20% opacity ~~as perceived by an opacity sensing device, where such device is required by District regulations.~~

(Amended July 11, 1990)

6-1-303 Ringelmann No. 2 Limitation: ~~A person shall not emit for a period or aggregate periods aggregating of more than three minutes in any hour, a visible emission that which is as dark or darker than No. 2 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to an equivalent or greater degree, nor shall said emission, as perceived by an opacity sensing device in good working order, where such device is required by District regulations, or be equal to ora greater than 40 percent opacity, from the following sources:~~

303.1 Internal combustion engines of less than 25 liters (1500 in³) displacement;

303.2 ~~or any~~ Eengines used solely as a standby source of motive power;

303.23 Laboratory equipment used exclusively for chemical or physical analyses or experimentation;

303.34 Portable brazing, soldering or welding equipment;

~~303.4 Deleted July 11, 1990.~~

(Amended 1/5/83; 7/11/90)

6-1-304 Tube Cleaning: ~~During tube cleaning, and except for three minutes in any one hour, a person shall not emit from any heat transfer operation using fuel at a rate of not less than 148 GJ (140 million BTU) per hour, a visible emission as dark or darker than No. 2 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to an equivalent or greater degree, or equal to or greater than 40 percent opacity ~~as perceived by an opacity sensing device in good working order.~~ The aggregate duration of such emissions in any 24-hour period shall not exceed 6.0 minutes per 1055 GJ (one billion BTU) gross heating value of fuel burned during such 24-hour period.~~

6-1-305 Visible Particles: ~~No~~ A person shall ~~not~~ emit particles from any operation in sufficient number to cause annoyance to any other person where the ~~which~~ particles are large enough to be visible as individual particles at the emission point, or of such size and nature as to be visible individually as incandescent particles. This Section ~~6-1-305~~ shall only apply if such particles fall on real property other than ~~that~~ the property of the person responsible for the emission.

6-1-306 Diesel Piledriving Hammers: No person shall emit visible emissions from a Piledriving hammers ~~powered by diesel fuel shall comply with one of that exceeds~~ the following standards for a period or aggregate periods of more than four minutes during the driving of a single pile:

306.1 For piledriving hammers other than those specified in Section 306.2, any visible emission ~~A person shall not emit from any diesel piledriving hammer for a period or periods aggregating more than four minutes during the driving of a single pile, a visible emission which that is as dark or darker than No. 1 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to an equivalent or greater degree,~~

306.2 For piledriving hammers utilizing kerosene, smoke suppressing fuel additives and synthetic lubricating oil, and for which fuel usage records are kept as required by Section 6-1-503, any visible emission ~~A person shall not emit from any diesel piledriving hammer for a period or periods aggregating more than four minutes during the driving of a single pile, a visible emission which that is as dark or darker than No. 2 on the Ringelmann Chart or of such opacity as to obscure an observer's view to an equivalent or greater degree, provided that the operator utilizes kerosene, smoke suppressing fuel additives and synthetic lubricating oil, and the requirements of Section 6-1-503 are satisfied.~~

(Adopted July 11, 1990)

6-1-307 Prohibition of Visible Emissions Within and From a Regulated Bulk Material Site:

- 307.1 Effective July 1, 2019, the owner/operator of a Regulated Bulk Material Site shall not cause or allow a fugitive dust visible emission from: active operations at the site, a bulk material stockpile, a bulk material spill or cleanup of a bulk material spill that:
- a. Exceeds (i) 5 feet long, 5 feet wide, or 5 feet high, and (ii) 10 percent opacity as determined by EPA Method 203B (or half as dark in shade as that designated as Number 1 on the Ringelmann Chart), for a period or aggregate periods of more than 3 minutes in any 60-minute period; or
 - b. Travels or carries beyond the site property line.
- 307.2 Effective July 1, 2019, the owner/operator of a Regulated Bulk Material Site shall clean up any bulk material spill of more than 12 inches high or more than 25 square feet by the end of the workday, unless the spill is adequately wetted, covered, or is protected by a wind screen with no more than 50 percent porosity that is (i) equal to or higher than the height of the spill; and (ii) placed upwind of the spill at a distance no greater than the height of the wind screen.

6-1-310 ~~Particulate Weight Limitation~~ Total Suspended Particulate (TSP) Concentration Limits:

- 310.1 A-No person shall ~~not~~ emit TSP from any source ~~matter~~ in excess of 343 mg per dscm (0.15 gr per dscf) of exhaust gas volume.
- 310.2 Effective July 1, 2020, no person shall emit TSP from any source with a Potential To Emit TSP (as defined in Regulation 2-1-217) greater than 1,000 kg per year at a concentration in excess of the limit indicated for the source's Exhaust Gas Rate in Table 6-1-310.2:

Table 6-1-310.2: Exhaust Gas Rate vs. Allowable TSP Concentrations

<u>Exhaust Gas Rate</u>		<u>TSP Concentration Limit</u>	
<u>dscm/min</u>	<u>dscf/min</u>	<u>mg/dscm</u>	<u>gr/dscf</u>
<u>50 or less</u>	<u>1,766 or less</u>	<u>343</u>	<u>0.150</u>
<u>>50 – 75</u>	<u>>1,766 - 2,649</u>	<u>298</u>	<u>0.130</u>
<u>>75 – 100</u>	<u>>2,649 - 3,531</u>	<u>268</u>	<u>0.117</u>
<u>>100 – 150</u>	<u>>3,531 - 5,297</u>	<u>230</u>	<u>0.101</u>
<u>>150 – 200</u>	<u>>5,297 - 7,063</u>	<u>207</u>	<u>0.0903</u>
<u>>200 – 300</u>	<u>>7,063 - 10,594</u>	<u>178</u>	<u>0.0776</u>
<u>>300 – 400</u>	<u>>10,594 - 14,126</u>	<u>159</u>	<u>0.0697</u>
<u>>400 – 500</u>	<u>>14,126 - 17,657</u>	<u>147</u>	<u>0.0641</u>
<u>>500 – 750</u>	<u>>17,657 - 26,486</u>	<u>126</u>	<u>0.0551</u>
<u>>750 - 1,000</u>	<u>>26,486 - 35,315</u>	<u>113</u>	<u>0.0495</u>
<u>>1,000 - 1,500</u>	<u>>35,315 - 52,972</u>	<u>97.3</u>	<u>0.0425</u>
<u>>1,500 - 2,000</u>	<u>>52,972 - 70,629</u>	<u>87.3</u>	<u>0.0382</u>
<u>>2,000 - 3,000</u>	<u>>70,629 - 105,944</u>	<u>75.1</u>	<u>0.0328</u>
<u>>3,000 - 4,000</u>	<u>>105,944 - 141,259</u>	<u>67.4</u>	<u>0.0295</u>
<u>>4,000 - 5,000</u>	<u>>141,259 - 176,573</u>	<u>62.0</u>	<u>0.0271</u>
<u>>5,000 - 7,500</u>	<u>>176,573 - 264,860</u>	<u>53.3</u>	<u>0.0233</u>
<u>>7,500 - 10,000</u>	<u>>264,860 - 353,147</u>	<u>47.8</u>	<u>0.0209</u>
<u>>10,000 - 15,000</u>	<u>>353,147 - 529,720</u>	<u>41.1</u>	<u>0.0180</u>
<u>>15,000 - 20,000</u>	<u>>529,720 - 706,293</u>	<u>36.9</u>	<u>0.0161</u>
<u>>20,000 - 30,000</u>	<u>>706,293 - 1,059,440</u>	<u>31.7</u>	<u>0.0139</u>
<u>>30,000 - 40,000</u>	<u>>1,059,440 - 1,412,587</u>	<u>28.5</u>	<u>0.0124</u>

<u>>40,000 - 50,000</u>	<u>>1,412,587 - 1,765,733</u>	<u>26.2</u>	<u>0.0115</u>
<u>>50,000 - 70,000</u>	<u>>1,765,733 - 2,472,027</u>	<u>23.1</u>	<u>0.0101</u>
<u>>70,000</u>	<u>>2,472,027</u>	<u>23.0</u>	<u>0.0100</u>

~~310.1 Incineration or Salvage Operations. For the purposes of 6-1-310, the actual measured concentration of particulate matter in the exhaust gas from any incineration operation or salvage operation shall be corrected to the concentration which the same quantity of particulate matter would constitute in the exhaust gas minus water vapor corrected to standard conditions, containing 12% CO₂ by volume, and as if no auxiliary fuel had been used.~~

~~310.2 Gas-fired Pathological Waste Incinerators. The particulate emissions from gas-fired pathological waste incinerators, where emissions are not mingled with emissions from incineration of general wastes, shall be corrected as specified in Section 6-1-310.1 except that correction for auxiliary fuel shall not be required.~~

~~310.3 Heat Transfer Operation. For the purposes of 6-1-310, the actual measured concentration of particulate matter in the exhaust from any heat transfer operation shall be corrected to the concentration which the same quantity of particulate matter would constitute in the exhaust gas minus water vapor, corrected to standard conditions, containing 6% oxygen by volume.~~

310.3 For the purposes of Section 6-1-310, the measured concentration of TSP in the exhaust shall be corrected to standard conditions (as defined in Regulation 1-228) and (i) 12 percent carbon dioxide (CO₂) by volume, minus water vapor, for incineration or salvage operations and gas-fired pathological waste incinerators; or (ii) 6 percent oxygen (O₂) by volume, minus water vapor, for heat transfer operations. In the case of an incineration or salvage operation, the concentration shall be corrected as if no auxiliary fuel had been used and any CO₂ produced from combustion of liquid or gaseous fuel shall be excluded from the correction to 12 percent CO₂.

6-1-311 General Operations Total Suspended Particulate (TSP) Weight Limits: ~~In addition to the limitation of Section 6-1-310, a~~

311.1 No person shall emit TSP not discharge into the atmosphere from any source general operation particulate matter from any emission point, at a rate in excess of the limit indicated for the source's Process Weight Rates specified in Table 4-6-1-311.1 for the process weight rate indicated. This section shall not apply to gas-, liquid- or solid-fuel-fired indirect heat exchangers.

**TABLE 1
ALLOWABLE RATE OF EMISSIONS BASED ON PROCESS WEIGHT RATE**

Process wt rate = P		Emission = E	
kg/hour	lbs/hour	kg/hour	lbs/hour
250	550	0.8	1.8
300	660	0.9	2.0
400	880	1.1	2.4
500	1100	1.3	2.9
1000	2205	2.1	4.6
2000	4410	3.3	7.3
3000	6615	4.3	9.5

4000	8820	5.2	11.
5000	1102	6.0	13.
10000	2204	9.6	21.
20000	4409	15.	33.
over 26000	5732	18.	40.

~~(Interpolation formula deleted May 21, 1980. See page 6-1-5 for formulae.)~~

~~Interpolation in kg/hr~~

~~$E \text{ in kg/hr} = 0.02 P^{0.67} \text{ in kg/hr}$~~

~~The interpolation of the data in this Table shall be accomplished by the use of the equation $E = 0.02 P^{0.67}$, where E = rate of emission in kg/hour, not to exceed 18.1 kg/hour and P = process weight rate in kg/hour.~~

~~Interpolation in lbs/hr~~

~~$E \text{ in lbs/hr} = 4.10 P^{0.67} \text{ in lbs/hr (with P in lbs/hr)}$~~

Table 6-1-311.1: Process Weight Rate vs. Allowable TSP Emission Limits

<u>Process Weight Rate</u>		<u>TSP Emission Limit</u>	
<u>kg/hour</u>	<u>lb/hour</u>	<u>kg/hour</u>	<u>lb/hour</u>
<u>250 or less</u>	<u>551 or less</u>	<u>0.81</u>	<u>1.78</u>
<u>>250 - 300</u>	<u>>551 - 661</u>	<u>0.91</u>	<u>2.02</u>
<u>>300 - 400</u>	<u>>661 - 882</u>	<u>1.11</u>	<u>2.45</u>
<u>>400 - 500</u>	<u>>882 - 1,102</u>	<u>1.29</u>	<u>2.84</u>
<u>>500 - 600</u>	<u>>1,102 - 1,323</u>	<u>1.45</u>	<u>3.21</u>
<u>>600 - 700</u>	<u>>1,323 - 1,543</u>	<u>1.61</u>	<u>3.56</u>
<u>>700 - 800</u>	<u>>1,323 - 1,764</u>	<u>1.76</u>	<u>3.89</u>
<u>>800 - 900</u>	<u>>1,764 - 1,984</u>	<u>1.91</u>	<u>4.21</u>
<u>>900 - 1,000</u>	<u>>1,984 - 2,205</u>	<u>2.05</u>	<u>4.52</u>
<u>>1,000 - 1,200</u>	<u>>2,205 - 2,646</u>	<u>2.31</u>	<u>5.11</u>
<u>>1,200 - 1,400</u>	<u>2,646 - 3,086</u>	<u>2.56</u>	<u>5.66</u>
<u>>1,400 - 1,600</u>	<u>3,086 - 3,257</u>	<u>2.80</u>	<u>6.19</u>
<u>>1,600 - 1,800</u>	<u>3,257 - 3,968</u>	<u>3.03</u>	<u>6.70</u>
<u>>1,800 - 2,000</u>	<u>>3,968 - 4,409</u>	<u>3.26</u>	<u>7.19</u>
<u>>2,000 - 2,500</u>	<u>>4,409 - 5,512</u>	<u>3.78</u>	<u>8.35</u>
<u>>2,500 - 3,000</u>	<u>>5,512 - 6,614</u>	<u>4.27</u>	<u>9.43</u>
<u>>3,000 - 3,500</u>	<u>>6,614 - 7,716</u>	<u>4.74</u>	<u>10.5</u>
<u>>3,500 - 4,000</u>	<u>>7,716 - 8,818</u>	<u>5.18</u>	<u>11.4</u>
<u>>4,000 - 4,500</u>	<u>>8,818 - 9,921</u>	<u>5.61</u>	<u>12.4</u>
<u>>4,500 - 5,000</u>	<u>>9,921 - 11,023</u>	<u>6.02</u>	<u>13.3</u>
<u>>5,000 - 6,000</u>	<u>>11,023 - 13,228</u>	<u>6.80</u>	<u>15.0</u>
<u>>6,000 - 7,000</u>	<u>>13,228 - 15,432</u>	<u>7.54</u>	<u>16.6</u>
<u>>7,000 - 8,000</u>	<u>>15,432 - 17,637</u>	<u>8.24</u>	<u>18.2</u>
<u>>8,000 - 9,000</u>	<u>>17,637 - 19,842</u>	<u>8.92</u>	<u>19.7</u>
<u>>9,000 - 10,000</u>	<u>>19,842 - 22,046</u>	<u>9.57</u>	<u>21.1</u>
<u>>10,000 - 12,000</u>	<u>>22,046 - 26,455</u>	<u>10.8</u>	<u>23.9</u>
<u>>12,000 - 14,000</u>	<u>>26,455 - 30,865</u>	<u>12.0</u>	<u>26.5</u>
<u>>14,000 - 16,000</u>	<u>>30,865 - 35,274</u>	<u>13.1</u>	<u>29.0</u>

<u>>16,000 - 18,000</u>	<u>>35,274 – 39,683</u>	<u>14.2</u>	<u>31.3</u>
<u>>18000 - 20,000</u>	<u>>39,683 - 44,092</u>	<u>15.2</u>	<u>33.6</u>
<u>>20,000 - 22,000</u>	<u>>44,092 – 48,502</u>	<u>16.2</u>	<u>35.9</u>
<u>>22,000 - 24,000</u>	<u>>48,502 – 52,911</u>	<u>17.2</u>	<u>38.0</u>
<u>>24,000 - 25,000</u>	<u>>52,911 – 55,116</u>	<u>17.7</u>	<u>39.1</u>
<u>>25,000</u>	<u>>55,116</u>	<u>18.1</u>	<u>40.0</u>

311.2 Effective July 1, 2020, no person shall emit TSP from any source with a Potential To Emit TSP (as defined in Regulation 2-1-217) greater than 1,000 kg per year at a rate in excess of the limit indicated for the source's Process Weight Rate in Table 6-1-311.2:

Table 6-1-311.2: Process Weight Rate vs. Allowable TSP Emission Limits

<u>Process Weight Rate</u>		<u>TSP Emission Limit</u>	
<u>kg/hour</u>	<u>lb/hour</u>	<u>kg/hour</u>	<u>lb/hour</u>
<u>100 or less</u>	<u>220 or less</u>	<u>0.45</u>	<u>0.99</u>
<u>>100 - 150</u>	<u>>220 - 331</u>	<u>0.59</u>	<u>1.29</u>
<u>>150 - 200</u>	<u>>331 - 441</u>	<u>0.70</u>	<u>1.55</u>
<u>>200 - 300</u>	<u>>441 - 661</u>	<u>0.90</u>	<u>1.98</u>
<u>>300 - 400</u>	<u>>661 - 882</u>	<u>1.06</u>	<u>2.34</u>
<u>>400 -500</u>	<u>>882 - 1,102</u>	<u>1.21</u>	<u>2.67</u>
<u>>500 - 750</u>	<u>>1,102 - 1,653</u>	<u>1.52</u>	<u>3.34</u>
<u>>750 – 1,000</u>	<u>>1,653 - 2,205</u>	<u>1.78</u>	<u>3.92</u>
<u>>1,000 – 1,500</u>	<u>>2,205 - 3,307</u>	<u>2.21</u>	<u>4.86</u>
<u>>1,500 - 2,000</u>	<u>>3,307 - 4,409</u>	<u>2.56</u>	<u>5.65</u>
<u>>2,000 - 3,000</u>	<u>>4,409 - 6,614</u>	<u>3.15</u>	<u>6.95</u>
<u>>3,000 - 4,000</u>	<u>>6,614 - 8,818</u>	<u>3.64</u>	<u>8.02</u>
<u>>4,000 - 5,000</u>	<u>>8,818 - 11,023</u>	<u>4.06</u>	<u>8.95</u>
<u>>5,000 - 7,500</u>	<u>>11,023 - 16,535</u>	<u>4.96</u>	<u>10.9</u>
<u>>7,500 - 10,000</u>	<u>>16,535 - 22,046</u>	<u>5.44</u>	<u>12.0</u>
<u>>10,000 - 15,000</u>	<u>>22,046 - 33,069</u>	<u>6.00</u>	<u>13.2</u>
<u>>15000 - 20,000</u>	<u>>33,069 - 44,092</u>	<u>6.40</u>	<u>14.1</u>
<u>>20,000 - 30,000</u>	<u>>44,092 - 66,139</u>	<u>7.04</u>	<u>15.5</u>
<u>>30,000 - 40,000</u>	<u>>66,139 - 88,185</u>	<u>7.53</u>	<u>16.6</u>
<u>>40,000 - 50,000</u>	<u>>88,185 - 110,231</u>	<u>7.93</u>	<u>17.5</u>
<u>>50,000 - 75,000</u>	<u>>110,231 - 165,347</u>	<u>8.71</u>	<u>19.2</u>
<u>>75,000 - 100,000</u>	<u>>165,347 - 220,462</u>	<u>9.33</u>	<u>20.6</u>
<u>>100,000 - 150,000</u>	<u>>220,462 - 330,693</u>	<u>10.3</u>	<u>22.6</u>
<u>>150,000 - 200,000</u>	<u>>330,693 - 440,925</u>	<u>11.0</u>	<u>24.2</u>
<u>>200,000 - 300,000</u>	<u>>440,925 - 661,387</u>	<u>12.1</u>	<u>26.6</u>
<u>>300,000 - 400,000</u>	<u>>661,387 - 881,849</u>	<u>12.9</u>	<u>28.5</u>
<u>>400,000</u>	<u>>881,849</u>	<u>13.6</u>	<u>30.0</u>

6-1-320 Sulfuric Acid Manufacturing Plants: –A person shall not emit from any operation manufacturing sulfuric acid using as a principal raw material any sulfur-containing
 Bay Area Air Quality Management District May 16, 2018

material, any emission having a concentration of SO₃ or H₂SO₄, or both, ~~expressed~~ converted to and quantified as 100% H₂SO₄, exceeding 92 mg per dscm (0.04 gr/dscf) of exhaust gas volume.

6-1-330 Sulfur Recovery Units: ~~A person shall not emit from any operation manufacturing sulfur, using as a principal raw material any sulfur-containing material, any emission having a concentration of SO₃ or H₂SO₄, or both, expressed~~ converted to and quantified as 100% H₂SO₄, exceeding 183 mg per dscm (0.08 gr/dscf) of exhaust gas volume.

6-1-400 ADMINISTRATIVE REQUIREMENTS

6-1-401 Appearance of Emissions: Persons subject to this Rule are subject to and shall comply with the requirements of Regulation 6-102. ~~Every person responsible for an emission (except from gas fired heat transfer operations regulated by Sections 6-1-301, 6-1-303 and 6-1-304) shall have and maintain means whereby the operator of the plant shall be able to know the appearance of the emission at all times.~~

6-1-402 Alternate Source Test Frequency: The APCO may authorize a person to reduce the frequency of source tests required in Section 6-1-504 or 505 if prior source test results indicate compliance with the applicable standard. To apply for such authorization, a person subject to Section 6-1-504 or 505 must submit a request in writing to the Director of Compliance and Enforcement and Manager of Source Test indicating (i) the name of the person requesting the reduction, (ii) the site number of the site for which the reduction is sought, (iii) the source number of the source for which the reduction is sought, (iv) the pollutant for which the reduction is sought; and (v) the results of prior source tests demonstrating compliance with the regulatory standard involved. The APCO shall approve or deny the reduction in frequency of source tests under this provision within 180 days of receipt of the written request.

6-1-500 MONITORING AND RECORDS

6-1-501 Sampling Facilities and Instruments Required: ~~As described in Regulation 6-501, persons subject to this Rule are subject to, and shall provide sampling facilities and install instruments as required by, the provisions of Regulation 1. Persons subject to this regulation shall provide sampling facilities and install instruments as required pursuant to the provisions of Sections 1-501, 1-520 and 1-521 of Regulation 1.~~

6-1-502 Data, Records and Reporting: As described in Regulation 6-502, ~~p~~Persons monitoring emissions in accordance with the requirements of ~~Sections 1-520 and 1-521 of~~ Regulation 1 shall keep records, report emission excesses and provide summaries of data collected as required by Regulation 1.

6-1-503 Records: ~~In order to be eligible for the Ringelmann No. 2 limitation set forth in Section 6-1-306.2, the A~~ person responsible for the operation of a ~~diesel~~ pile-driving hammer ~~who chooses to comply with subsection 6-1-306.2 shall~~ must maintain and have available for inspection records ~~which that~~ establish the use of kerosene, smoke suppressing fuel additives and synthetic lubricating oil.

(Adopted July 11, 1990)

6-1-504 Demonstration of Total Suspended Particles (TSP) Compliance: Effective July 1, 2019, the owner/operator of a permitted source with a Potential To Emit TSP (as defined in Regulation 2-1-217) of greater than 2,000 kg per year shall conduct source testing to demonstrate compliance with Section 6-1-310 and 311 according to the testing frequencies listed in Table 6-1-504, unless the owner/operator receives written approval from the APCO for a different testing frequency, as described in Section 6-1-

402. Source tests required under this section shall be conducted in accordance with Section 6-1-602.1.

Table 6-1-504: Required Compliance Test Frequencies

<u>Potential to Emit TSP (kg/year)</u>	<u>Compliance Test Frequency</u>	<u>Min. Time Between Tests</u>	<u>Max. Time Between Tests</u>
<u>> 16,000</u>	<u>Annually</u>	<u>9 months</u>	<u>15 months</u>
<u>> 8,000 – 16,000</u>	<u>Biennially</u>	<u>18 months</u>	<u>30 months</u>
<u>> 2,000 – 8,000</u>	<u>Every five years</u>	<u>48 months</u>	<u>72 months</u>

6-1-505 Demonstration of SO₃ and H₂SO₄ Compliance: Effective July 1, 2019, the owner/operator of a permitted source with a Potential To Emit SO₃ and H₂SO₄ (as defined in Regulation 2-1-217), converted to and quantified as 100 percent H₂SO₄, greater than 2,000 kg per year shall conduct source testing to demonstrate compliance with Section 6-1-320 or 330 according to the testing frequencies listed in Table 6-1-505, unless the owner/operator receives written approval from the APCO for a different testing frequency, as described in Section 6-1-402. Source tests required under this section shall be conducted in accordance with Section 6-1-602.2.

Table 6-1-505: Required Compliance Test Frequencies

<u>Potential to Emit SO₃ and H₂SO₄ (kg/year)</u>	<u>Compliance Test Frequency</u>	<u>Min. Time Between Tests</u>	<u>Max. Time Between Tests</u>
<u>> 16,000</u>	<u>Annually</u>	<u>9 months</u>	<u>15 months</u>
<u>> 8,000 – 16,000</u>	<u>Biennially</u>	<u>18 months</u>	<u>30 months</u>
<u>> 2,000 – 8,000</u>	<u>Every five years</u>	<u>48 months</u>	<u>72 months</u>

6-1-506 Monitoring and Recordkeeping at Regulated Bulk Material Sites: The owner/operator of any Regulated Bulk Material Site shall monitor sources and operations at the site subject to the requirements in Section 6-1-307 as follows:

506.1 Monitor the nature and extent of any fugitive dust visible emissions from each source or operation, using simple observation of the source or operation with the sun or light positioned behind the observer, at times when the potential for fugitive dust visible emissions is at its highest due to wind conditions and/or work activities, or as otherwise specified by the APCO, according to the following frequencies:

- a. For any source or operation located within 1000 feet of the site property line on a day when the wind is blowing from the source toward the property line, at least twice during each workday;
- b. For all sources and operations, at least once during each workday.
- c. Monitoring of petroleum coke, calcined coke, or coal operations are required during daylight hours only.

506.2 Document the date, time, sources and operations monitored each workday.

506.3 Maintain records required by Section 6-1-506.2 for two years, in electronic or log book format, and make these records available to the APCO upon request.

6-1-600 MANUAL OF PROCEDURES

6-1-601 Applicability of Test Methods: The common test methods cited in Regulation 6 shall apply to this Rule, including the methods cited in Regulation 6-601: Assessment of Visible Emissions, and Regulation 6-602: Assessment of Opacity.

~~**6-1-601** Particulate Matter, Sampling, Sampling Facilities, Opacity Instruments and Appraisal of Visible Emissions: The procedures and specifications for testing and evaluating emissions required by The MOP contains the testing temperature for the determination of the presence of particulate matter, procedures relating to the siting of sampling facilities, source test procedures, opacity instrument specifications, calibration and maintenance requirements, and the procedure for appraising visible emissions.~~

6-1-602 Methods for Determining Compliance: Compliance testing required by Sections 6-1-504 and 505 shall be based on the following test methods:

602.1 Total Suspended Particulate: Source tests to determine compliance with TSP emissions limits shall be conducted in accordance with EPA Method 5, or an alternate method as described in Regulation 6-603.

602.2 SO₃ and Sulfuric Acid Mist: Source tests to determine compliance with SO₃ and H₂SO₄ emission limits shall be conducted in accordance with EPA Method 8 or an EPA and APCO approved alternative.