



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

Funding Community Benefits from Penalty Funds

**NACAA Spring Membership Meeting
State and Local Best Practices: Spotlight Panel
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Presentation Outline



- Information about penalties
- Penalty allocation policy
- Mitigating budget risk
- Recommendations from community representatives

About Penalties



- We collect penalties from facilities that violate our regulations.
- In the past five years, these funds have varied from \$700k to \$4.2 Million (M) per year.
- Penalty collections for this fiscal year are almost \$22 M.
- In the current fiscal year, \$3 M of penalty fund revenue was budgeted to partially fund our enforcement program consisting of 77 full time employees with a total direct costs of roughly \$16 M per year.

About Penalties (cont.)



- Most individual penalty packages are between \$10-\$50k (58%).
- But most of the penalty dollars collected are from a few large penalty packages exceeding \$1 M.
- Penalties > \$1 M are paid primarily by petroleum refineries and related industry. Over 90% of the penalties collected in recent years are from this sector.
 - As the refineries are all clustered in one part of our district, there is a potential for the funds to be concentrated in this area to the exclusion of other communities that are overburdened by air pollution and need help.

Goals of Proposed Policy



- Allocate as much of penalty funds as possible to community benefits, while ensuring the Air District recovers appropriate costs.
- Focus on providing benefits to the community impacted by the air quality violation, but also address the needs of communities that may not have large industrial sources.
- Policy does not include decisions on programming of funds
 - We will develop the programs in partnership with impacted communities

Community Benefit Project Examples



Examples of projects that were identified for possible funding from penalty money from a community advisory committee in Richmond, CA (home to a large refinery):

- Reduce particulate matter and other toxic air pollution from food cooking operations.
- Urban greening projects.
- Expand accessibility to programs like Black Infant Health and CalAIM.
 - CalAIM is a far-reaching, multiyear plan to transform California's Medi-Cal program and integrate it more seamlessly with other social services
 - Led by California's Department of Health Care Services, the goal of CalAIM is to improve outcomes for millions of Californians covered by MediCal, especially those with the most complex needs
- Expand asthma programs in schools.
- Home retrofits for asthma patients.

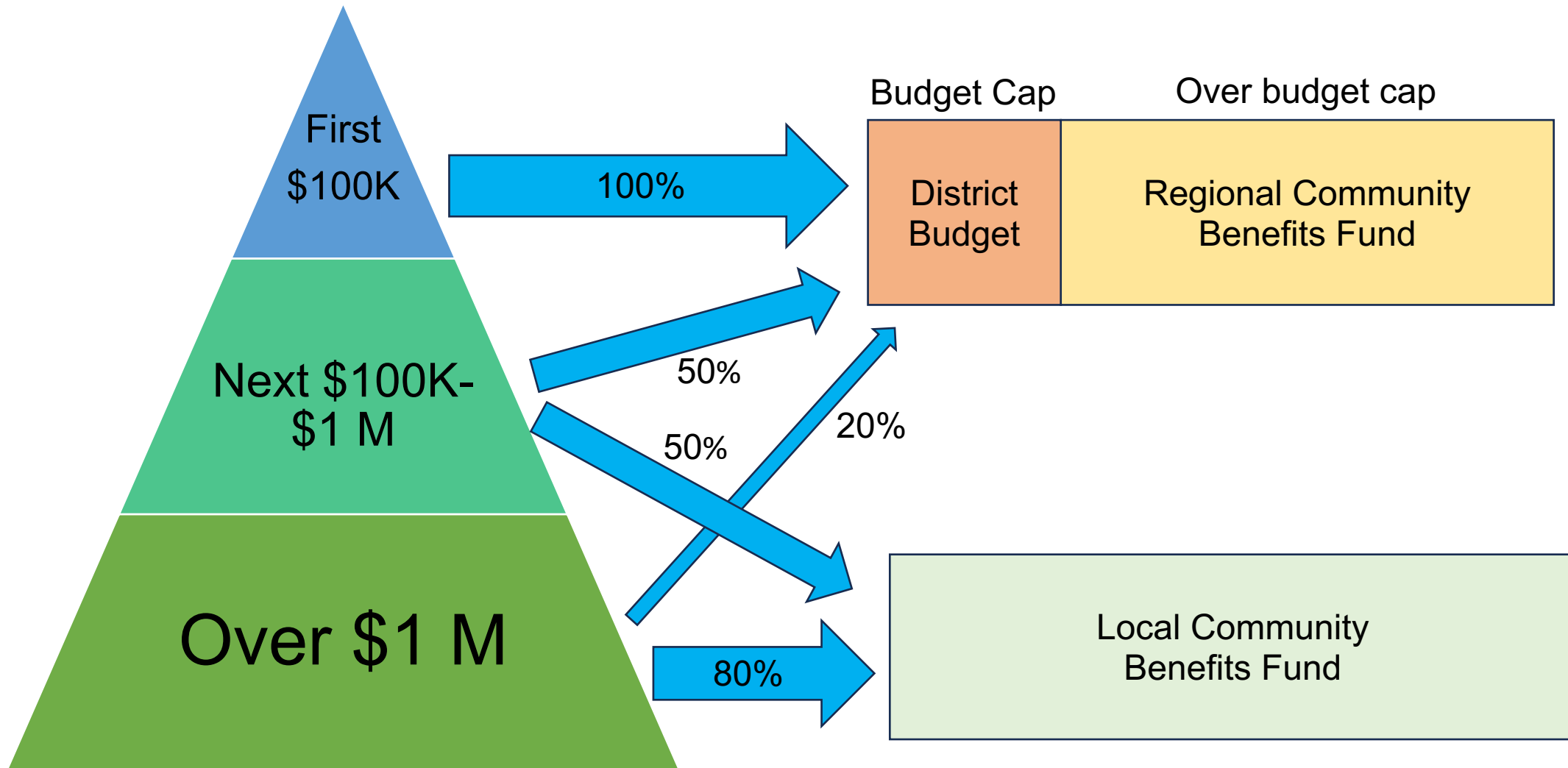
Penalty Allocation Proposal



Lower Break Point	Upper Break Point	% to Local Benefit Fund	% to Air District or Regional Benefit Fund
\$0	\$100,000		100%
\$100,000	\$1 M	50%	50%
\$1 M		80%	20%

- The first \$100,000 of each penalty payment would go to offset the Air District's expenses in enforcing regulations. **After the budget cap is met those funds would go into a regional benefit fund.**
- Between \$100,000 and \$1 M, 50% of the penalties would go to a fund to benefit the community impacted by the violation. The balance would go Air District's general fund or the regional benefit fund (after the budget cap has been met).
- Above \$1 M, 80% of the penalties would be reserved for local benefits programs, with 20% to the Air District's general fund or the regional benefit fund (after the budget cap has been met).

Penalty Allocation Proposal (cont.)



Mitigating Budget Risk



- Penalty Collections vary from year-to-year, but are expected to be higher than in prior years due to enhanced and prioritized enforcement by the Air District.
- Fiscal Year Ending (FYE) 2024 budget assumes \$3 M in penalty collections with actual collections near \$22 M year-to-date.
- Proposed FYE 2025 budget assumes \$4 M in penalty collections.
- The proposed policy would automatically allocate some funding for local benefits for any penalty package over \$100,000, potentially creating some budget risk.

Mitigating Budget Risk (cont.)



- Proposal: Set the Fiscal Year Penalty Budget Cap to account for any shortfalls in the previous two years.
- Fiscal Year Penalty Budget Assumption = general revenue for penalties assumed in the budget.
 - FYE 2024 - \$3 M
 - FYE 2025 - \$4 M (proposed)
- Fiscal Year Penalty Budget Cap = Fiscal Year Budget Assumption + any recent shortfalls

Community Input



- Community Advisory Council (CAC)
- Assembly Bill (AB) 617 Community Steering Committee (CSC)
 - Richmond-North Richmond-San Pablo

Community Advisory Council Recommendations



- Recommend that the Air District Board of Directors create a policy in collaboration with the CAC that automatically sets aside a portion of penalties for regional and local benefits.
- Recommend that the Air District Board of Directors have the CAC conduct an annual periodic review of the program after one year to ensure that the policy is effective and equitable.

Community Advisory Council Recommendations (cont'd)



- Recommend that the Air District Board of Directors ensure, with the collaboration of the CAC, that there is the creation of a plan for community outreach and oversight of any local or regional benefit fund spending programs.
- Recommend that the Board of Directors set a policy in collaboration with the CAC that automatically allocates a portion of penalties for local (80%) and regional (20%) community benefits.

Partial Results for FYE 2024



- For the fiscal year ending 2024 including the \$20 M Chevron penalty, the proposed 80/20 split would have the following results:
 - Air District budget cap of \$3 M met
 - Local benefit fund for Richmond area: \$16,250,000
 - Regional benefit fund: \$2,658,650
 - Local benefit fund for Pleasanton: \$64,000

Board Response



- Board of Directors was strongly supportive of this recommendation (unanimous approval).
- Board was happy to be showing leadership in this area and meeting a longstanding community demand.
- They did raise some practical concerns:
 - Budget impact should penalty collections decrease over time
 - Need to recover costs from administering community benefits funds
 - Need to recover any litigation expenses
 - How will the geographic extent of the "local" community be determined?

End of Presentation



Questions?