

**Air Quality Management Division
Division Director Staff Report
Board Meeting Date: July 25, 2024**

DATE: July 9, 2024

TO: District Board of Health

FROM: Francisco Vega, P.E., Division Director
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SUBJECT: **Air Quality Management - SCOTUS Overrules Chevron Decision, Ford Motor Company Moves to Intervene in Support of EPA, May 2024 EPA Small Business Newsletter, Divisional Update, Program Reports, Monitoring and Planning, Permitting and Compliance**

1. Program Update

a. SCOTUS Overrules Chevron Decision

By a vote of 6 to 3, the Supreme Court of the United States (SCOTUS) overruled its 1984 decision in *Chevron v. Natural Resources Defense Council*, which held that courts should defer to a regulatory agency's reasonable interpretation of an ambiguous statute. In this its opinion, the Court holds, "The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; *Chevron* is overruled." There have been 70 Supreme Court decisions relying on *Chevron*, along with 17,000 in the lower courts. This opinion applies to two nearly identical cases heard by Court 22-451, *Loper Enterprises v. Raimondo*, and 22-1219, *Relentless v. Department of Commerce*, having to do with a 2020 regulation issued by the National Marine Fisheries Service requiring that herring boat owners pay a daily \$700 fee for oversight of federal observers collecting data, who the boats are required to have onboard under a 1976 federal law to prevent overfishing.



Chief Justice John Roberts wrote the opinion, which Justices Clarence Thomas, Samuel Alito, Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett joined; Justices Thomas and Gorsuch also wrote concurring opinions. Justice Elena Kagan wrote a dissenting opinion, which Justice Sonia Sotomayor joined; Justice Ketanji Brown Jackson joined the dissent as it applies to No. 22-1219 and took no part in the consideration or decision of 22-451 due to her involvement with the case when she served as a judge of the U.S. Court of Appeals for the District of Columbia Circuit.

David Doniger, a lawyer and longtime Natural Resources Defense Council official who argued the original Chevron case in 1984, said he feared that a ruling to overturn the doctrine could “free judges to be radical activists” who could “effectively rewrite our laws and block the protections they are supposed to provide.” “The net effect will be to weaken our government’s ability to meet the real problems the world is throwing at us. Big things like COVID and climate change,” Doniger said.

For further information, visit the link below.

www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

b. Ford Motor Company Moves to Intervene in Support of EPA

Ford Motor Company (Ford) has filed a motion in the U.S. Court of Appeals for the District of Columbia Circuit to intervene in support of Environmental Protection Agency (EPA) in litigation challenging the agency’s final rule establishing Phase 3 greenhouse gas (GHG) emission standards for heavy-duty trucks and engines.



In its motion, Ford urged the court to grant its intervention request, writing “Ford supports EPA’s efforts to regulate greenhouse gases and other emissions from heavy-duty motor vehicles. Ford is committed to reducing emissions in its own fleet and scaling up its production of electric

vehicles and hybrids to satisfy growing customer demand and provide customers with choices in addition to vehicles that use internal combustion engines. Ford is investing billions in electrification efforts and creating jobs, including building new electric vehicle and battery assembly plants in Kentucky, Michigan, and Tennessee, transitioning existing facilities in Missouri and Ohio to produce electric vehicles, and expanding production capacity for hybrid vehicles. The Final Rule sets standards for reducing greenhouse gas emissions from heavy-duty vehicles for model year (“MY”) 2027 to MY 2032, and selling

electric and hybrid vehicles is a primary way by which Ford plans to comply. As a company directly regulated by the Final Rule that seeks a stable regulatory landscape for corporate planning, Ford has an obvious and substantial interest in this litigation, including in defending the EPA's authority to establish emissions standards and aspects of the Rule that establish how automakers demonstrate compliance with those standards.”

The EPA estimates that the final rule will avoid nearly 1 billion tons of GHG emissions from 2027 to 2055 and will produce \$13 billion of annualized benefits through 2055, which will include \$10 billion in annualized climate benefits. The final standards also are projected to reduce air pollution for the 72 million people who live near major truck freight routes who bear a disproportionate burden of exposure to higher pollution levels.

c. May 2024 EPA Small Business Newsletter

Please visit the link below to view the May 2024 EPA small business monthly newsletter which highlights environmental regulation, compliance assistance, resources, and



EPA's Asbestos and Small Business Ombudsman Program

A MONTHLY NEWSLETTER FOR THE REGULATED SMALL BUSINESS COMMUNITY

upcoming events. Contact asbo@epa.gov to subscribe to the newsletter. For more information about small business resources and

Small Business Environmental Assistance Programs (SBEAPs), visit <https://www.epa.gov/resources-small-businesses>.

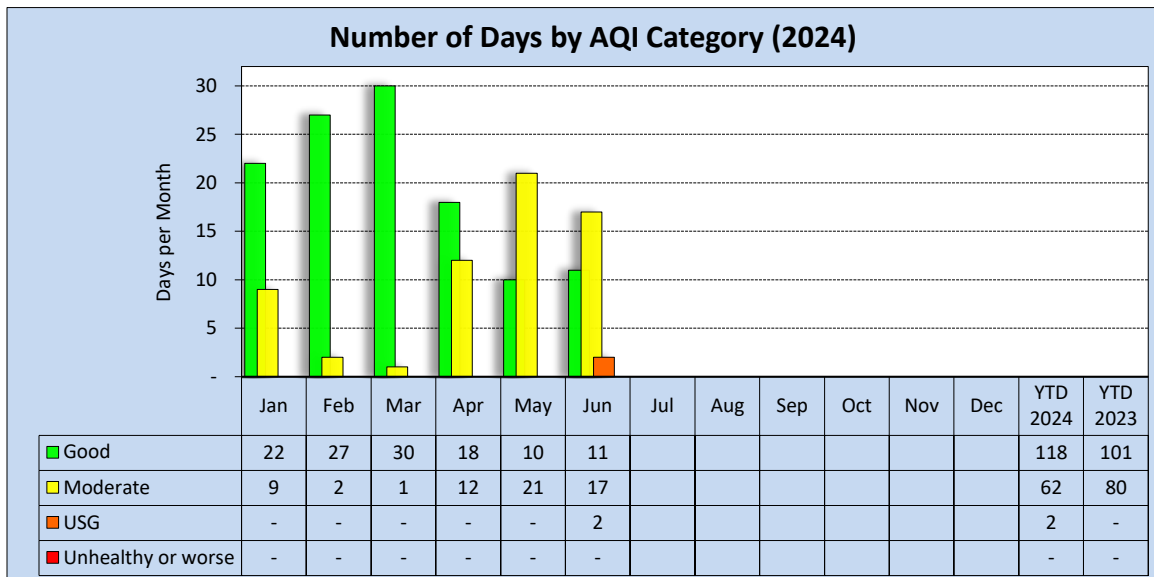
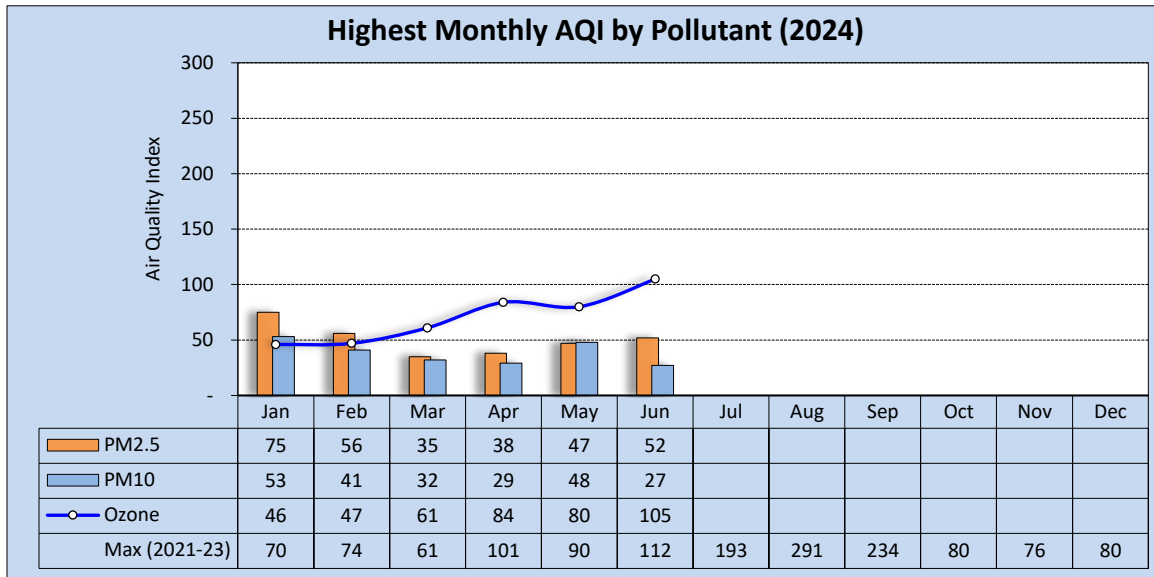
May Newsletter

<https://www.epa.gov/system/files/documents/2024-05/asbo-may-2024-smallbiz-final.pdf>

Francisco Vega, P.E., MBA
Division Director

2. Divisional Update

- a. Below are two charts detailing the most recent ambient air monitoring data. The top chart indicates the highest AQI by pollutant and includes the highest AQI from the previous three (3) years in the data table, for comparison. The bottom chart indicates the number of days by AQI category and includes the previous year to date for comparison.



Ambient air monitoring data in these charts represent midnight to midnight concentrations to illustrate comparisons to the NAAQS. These data are neither fully verified nor validated and should be considered PRELIMINARY. As such, the data should not be used to formulate or support regulation, guidance, or any other governmental or public decision.

3. Program Reports

a. **Monitoring and Planning**

June Air Quality: There were two exceedances of the ozone and no exceedance of the PM₁₀ and PM_{2.5} National Ambient Air Quality Standards (NAAQS). The highest ozone, PM_{2.5}, and PM₁₀ concentrations for the month are listed in the table below.

Pollutant	Concentration	Date(s)	Site(s)	Notes
Ozone (8-hour)	0.072 ppm	6/14	Lemmon Valley	Overnight ozone exceedance due to exceptional event
PM _{2.5} (24-hour)	9.5 µg/m ³	6/11	Sparks	Sullivan and Trail Fires smoke influenced
PM ₁₀ (24-hour)	52 µg/m ³	5/4	Sparks	-

Ozone Season: Ozone is a summertime pollutant of concern in Washoe County. Ozone is a gas that is found in two regions of the Earth's atmosphere – at ground level and in the upper atmosphere. Ozone protects us from the sun's harmful rays in the upper atmosphere, while ground-level ozone is harmful to our health and is the main component of smog. Ground-level ozone is created by chemical reactions between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC. On rare occasions, ozone from the upper atmosphere can mix down to ground-level, and increase concentrations to unhealthy levels, which is exactly what caused an exceedance of the ozone NAAQS on the night of June 14-15, 2024.

Be Smoke Smart: Washoe County is already seeing smoke impacts from wildfires in Northern California this season. Smoke and air pollution concentrations can change rapidly during wildfires. PM_{2.5} concentrations can worsen and reach harmful levels in just a few hours. AQM developed the "[Keep it Clean, Be Smoke Smart](#)" campaign to provide current wildfire and smoke information for the community. "Be Smoke Smart" is a great resource to answer basic questions about wildfires such as: Where is the fire? Where is the smoke going to be? What is the current air quality? What should I do to protect myself? AQM partners with the National Weather Service and local media to educate the public on how to make good decisions when wildfire smoke affects Northern Nevada.



Craig A. Petersen
Supervisor, Monitoring and Planning

b. Permitting and Compliance

June

Staff reviewed fifty-seven (57) sets of plans submitted to the Reno, Sparks, or Washoe County Building Departments to assure the activities complied with Air Quality requirements.

In June 2024, staff conducted forty-seven (47) stationary source inspections and two (2) initial compliance inspections. Staff were assigned nine (9) new asbestos abatement projects – monitoring the removal of approximately thirty-four thousand five hundred fifteen (34,515) square feet and seven hundred sixty-eight (768) linear feet of asbestos containing materials. Staff received four (4) facility demolition projects to monitor. Further, there were sixteen (16) new construction/dust projects comprising an additional one hundred eighty-three (183) acres of disturbance. Staff documented forty-three (43) construction site inspections. During the month, compliance staff also responded to fifteen (15) complaints.

Type of Permit	2024		2023	
	June	YTD	June	Annual Total
Renewal of Existing Air Permits	106	608	103	1,079
New Authorities to Construct	6 (New and Major Modifications)	28	1 (New and Major Modifications)	42
Dust Control Permits	16 (183 acres)	96 (1,277 acres)	23 (404 acres)	193 (2,386 acres)
Wood Stove (WS) Certificates	22	126	18	242
WS Dealers Affidavit of Sale	6 (1 replacement)	44 (18 replacements)	2 (1 replacements)	124 (56 replacements)
WS Notice of Exemptions	631 (6 stoves removed)	3,358 (32 stoves removed)	611 (6 stoves removed)	6,495 (57 stoves removed)
Asbestos Assessments	50	355	73	731
Asbestos Demo and Removal (NESHAP)	13	77	30	196



Complaints	2024		2023	
	June	YTD	June	Annual Total
Asbestos	1	7	1	12
Diesel Idling	0	1	0	2
Dust	11	46	4	96
Nuisance Odor	2	8	1	7
Permit to Operate	0	0	0	0
Burn Code	0	1	0	4
General	1	11	4	40
TOTAL	15	74	10	161
Enforcement	June	YTD	June	Annual Total
Warnings	0	26	2	26
Notice of Violations	1	18	2	20
TOTAL	1	44	4	46

Joshua C. Restori
 Supervisor, Permitting & Compliance