

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

APPROVED MINUTES

Advisory Council Regular Meeting
10:00 a.m., Wednesday, November 10, 2004

CALL TO ORDER 10:05 a.m.

Opening Comments Chairperson Blake noted that as the guest speaker may arrive later in today's meeting she would be adjusting the order of agenda items as necessary.

Roll Call Present: Elinor Blake, Chairperson, Sam Altshuler, P.E., Diane Bailey, Sanjiv Bhandari, Robert Bornstein, Ph.D., Louise Bedsworth, Ph.D., Jeffrey Bramlett, Harold Brazil, Irvin Dawid, Fred Glueck, William Hanna, Stan Hayes, John Holtzclaw, Ph.D., Kraig Kurucz, Victor Torreano, Linda Weiner, Brian Zamora.

Absent: Emily Drennen, Norman A. Lopera, Jr., Kevin Shanahan,

PUBLIC COMMENT PERIOD There were no public comments.

CONSENT CALENDAR

1. Approval of Minutes of September 8, 2004. Dr. Holtzclaw moved approval of the minutes as submitted; seconded by Mr. Hayes; carried, with Mr. Hanna abstaining.

COMMITTEE REPORTS

3. Report of the Joint Air Quality Planning Committee (AQPC) & Technical Committee Meeting of October 12, 2004. Dr. Bedsworth stated that two guest speakers provided presentations on alternative fuels and alternative fuel vehicle technology to the two Committees, which will meet again jointly on December 16 to continue the discussion of alternative fuels. Mr. Dawid stated that he discovered, in the course of follow up with CalStart regarding an environmentally friendly fuel called bio-gas, that the Sierra Club has some objections to the fuel digesters. Chairperson Blake stated that this topic can be incorporated into the Council's 2005 work plan.

5. Report of the Executive Committee Meeting of November 10, 2004. Chairperson Blake stated that the Committee met this morning and recommends a slate of Officers for the Council in 2005 and would like to nominate Brian Zamora as Chair, Kraig Kurucz as Vice-Chair and Fred Glueck as incoming Secretary. The floor is open to any additional nominations. She explained that historically the Vice-Chair becomes Chair, the Secretary becomes Vice-Chair and the Secretary is nominated from the Council membership. There being no questions or additional nominations, Chairperson Blake called for a vote on the recommendation and it carried unanimously by acclamation. Mr. Hanna moved; Mr. Torreano seconded; carried unanimously.

OTHER BUSINESS

- 7. Discussion of Feedback Regarding Advisory Council Activities in 2004.** Chairperson Blake stated that very positive feedback has been received in a survey of Council members on processes and activities. About half of the Council members responded and rated highly their various learning experiences. Opinion varied on either the excess or insufficiency of the discussion of work plan issues, and the time frame over which topics are assessed before recommendations are issued. A common thread throughout the responses was that members want to know that their time was well spent, and that a recommendation had some impact either on the District or some other agency. One member commented that topics should not be taken on in which recommendations are not likely to effectuate change. Mr. Hanna observed that the Council has had to opine on some issues—particularly those that concern scientific conclusions—strictly for the record, even if neither the Board nor the staff agree, and regardless of whether the issue entails any action.
- 6. Reports From Council Members Who Attended the District’s Ozone Strategy Community Meetings.** Chairperson Blake directed that members who attended a community meeting should send an e-mail to the Deputy Clerk with comments on how various presentations went.
- 8. Report of the Executive Officer/APCO.** Deputy APCO Peter Hess stated:

 - a) Executive Officer/APCO Jack Broadbent is part of the Governor’s delegation from California that is traveling to Japan to discuss economic and trade issues affecting the Bay Area.
 - b) Vallejo resident Stephen Dampier contacted the Council by e-mail, and expressed concern over foul odors and a Level III shelter-in-place at the ConocoPhillips Refinery that occurred last Sunday. District staff has contacted him regarding the odors from biodegradation in water slews that he experienced prior to the refinery release incident. The District’s website has posted the refinery release incident report data and is further investigation the matter. A community meeting will be held tonight in Crockett, with District, health department and refinery staff present. Dr. Bornstein suggested staff encourage the press to publish an article on the outcome of the refinery meetings and pending investigation in order to provide follow-up. Mr. Hess noted that it is rare that the Advisory Council is contacted rather than the Board. When the latter receives a communication it is forwarded to the Public Outreach Division staff that in turn responds and sends a copy of it to the receiving Board member. Chairperson Blake indicated she had written a short note to Mr. Dampier and then referred him to the staff of the District’s Public Information & Outreach Division.
 - c) Staff is reviewing Council and public comments on the District’s Ozone Strategy and will incorporate them into the environmental review documents, after which another round of public meetings will be held to discuss the plan that will be developed. Following these public hearings on the Plan’s adoption will be held first by the District, Metropolitan Transportation Commission and Association of Bay Area Governments; and then by the California Air Resources Board, which will then forward it to the federal Environmental Protection Agency.
 - d) Next year the District will sponsor a “Spare the Fare” program, based on the success of the free BART transit during the recent “Spare the Air” days. Using Congestion Management Air Quality (CMAQ) funds disbursed by MTC, this program will expand the free transit to other authorities in the Bay Area, such as AC Transit, Golden Gate Transit, MUNI, BART, etc. The District is stepping out as a leader in the country in sponsoring such programs.

- e) District staff appreciates the participation of Council members Holtzclaw and Glueck in the District's Cost Recovery Study. A contractor has now been hired, and a Cost Recovery Study will be issued next year to provide guidance and recommendations for setting permit fee levels.
- f) A new Community Outreach Manager, Sharon Jackson, has been hired from the Enforcement Division, and will have direct interface with community groups throughout the Bay Area in all aspects of the District's work. She will be invited to meet the Council at a future meeting.
- g) With regard to recent legislation, the 30-year rolling exemption has been eliminated from the Smog Check program. The recommendation to eliminate the exemption was made by the Council in 2003. District staff then sought a legislative sponsor for the bill, which has passed.
- h) The Governing Board has approved the collection of a \$2 increase in Smog Check fees along with a tire renewal fee. This will net additional funding for the Carl Moyer program and the Transportation Fund for Clean Air and obtain additional emission reductions from non-traditional sources. Oddly enough, the Board of the San Joaquin Valley APCD, which has the worst air quality in the state, did not adopt the necessary rule to seek that extra fee. Dr. Bedsworth noted that this issue would again be before that Board in December of this year.

PRESENTATION:

2. Update on the Smog Check II Program for the Bay Area: David Amlin, Manager, Engineering Section, Bureau of Automotive Repair (BAR).

Mr. Kurucz stated that the Council reviewed Smog Check issues in 2002 and 2003. Mr. Amlin was instrumental in acquainting the Air Quality Planning Committee (AQPC) with the Smog Check program and associated buy-back and scrappage programs. The AQPC held 13 meetings with a wide array of guest speakers before it adopted the nine recommendations on Smog Check that are enclosed in today's agenda packet. These concerned improving the robustness of vehicle repairs, participating in a vehicle remote sensing program, conducting vehicle buy-back programs and targeting cars for them, eliminating the two-year repair waiver, increasing vehicle registration fees to increase funding for buy-back and repair, eliminating the 30-year rolling exemption, annually inspecting high use and government vehicle fleets (this led to a pilot remote sensing program for taxi cabs fleets) identifying time frames to replace oxygen sensor and catalytic converters replacement, and reviewing the state's mobile source emission models.

Mr. Amlin stated that AB 2637 required the Bay Area to become a fully Enhanced Smog Check Program area with separate stations for vehicle test and repair and a phase-in of NOx cutpoints. The estimated emission reductions achieved beyond the Basic Smog Check program are 10 tons per day (tpd) of ROG, 16 tpd of NOx and 640 pounds per day (ppd) of benzene. Areas in the state that are not covered by the Enhanced program now comprise only 2% of the vehicle population. The Air Districts in those regions can voluntarily request to be included in the Enhanced program. Approximately 88% of the entire state hosts the Enhanced program with loaded mode testing; 10% has the Basic/Change of Ownership program, and 3% of the state has a Change of Ownership program. Other areas that have adopted the Enhanced program include El Dorado County, Placer County, Yolo-Solano, South Coast AQMD, Sacramento Metro AQMD, Ventura County APCD and the San Joaquin Unified APCD, covering approximately seven million additional vehicles.

Bay Area stations have had to upgrade their testing equipment and this process began in July of 2003, along with the training of technicians for loaded-mode testing procedures in the fall of 2003.

The transition to the Enhanced program in the Bay Area is almost complete. BAR public outreach included 26 electronic transmission notices to affected stations along with a mailing of a special edition of BAR's Smog Check advisory notice; direct mail to affected motorists; notices to technicians for training in the new modes of testing, and four workshops. The largest change from the Basic Smog Check program has been the increase in vehicle failure rates, from 9.05% during the period July – September 2003 to 13.56% during the period October 2003 – September 2004.

Program Changes and Improvements include a joint BAR/Air Resources Board (ARB) pilot remote sensing device (RDS) program, concerning which a draft report is due in mid 2005. This Advisory Council made recommendations on this type of program. Vehicles were tested last year and also this year in order to amass a considerable number of RSD tests. This will enhance BAR ability to identify directed vehicles and also to improve feasibility and public acceptability of off-cycle testing and also to identify vehicles for buy-back and scrappage. Clean screening is another goal that BAR will pursue. To increase participation in scrappage programs, BAR will use price points and incentives.

BAR will recommend legislation to end repair waivers based on indigence and will present repair subsidies as the alternative. Repair waivers in the state are comparatively few at this time, with perhaps not more than 10,000 annually. Lastly, the 30-year rolling exemption has been repealed. This was recommended by this Council and later introduced into legislation. The Legislature has provided that after five years such vehicles are exempt from being inspected under the hood. However, the evaporative and tailpipe emissions tests will remain in effect on such cars.

With regard to the Consumer Assistance Program, after a couple of years of cessation due to lack of funding, the vehicle buy-back program resumed in September of 2004. It now offers \$500 for vehicles that failed the Smog Check test. Repair assistance funding is also available, because registration fees for new vehicles were increased to \$12 to provide additional funding for repair assistance, vehicle retirement and the Carl Moyer program.

BAR and the ARB have jointly submitted a draft program evaluation to the Inspection & Maintenance Review Committee (I&MRC), which is now accepting public comments. Recommendations include the annual testing of high mileage vehicles and older vehicles in order to catch cars between testing cycles, clean screening of five- and six-year old vehicles, more stringent cut-points for failed vehicles, a smoke inspection test, the exemption of newer vehicles from Change of Ownership requirements for Smog Check, and improved enforcement of the Smog Check program.

Major legislation adopted in 2004 includes SB 1107 and AB 2683. These bills exempted vehicles from Smog Check testing during the first six model years, increased the fee for those exemptions with \$6 for the Carl Moyer Program, \$4 for the Consumer Assistance Program, \$2 for BAR. As of April 1, 2005 the 30-year rolling exemption, to 1976 model-year vehicles, was eliminated.

In response to Council member questions, Mr. Amlin noted:

- the cost of vehicle repairs is higher in Enhanced than in Basic Smog Check areas.
- for vehicles that failed a random roadside RSD check but passed their biennial inspection, policy recommendations will emerge from the I&MRC based on the results from the pilot study. The emphasis will be on voluntary compliance in the context of off-cycle tests.

- Regarding concerns on whether exemptions from Smog Check for hybrid vehicles increase their market desirability over natural gas vehicles, as of January of next year, all new vehicles will have the six-year exemption from Smog Check with no exception for vehicle type.
- With regard to life cycles of oxygen or catalytic converters, the ARB is conducting a study on catalytic converter and sensor replacement, and while it is not yet complete, there has been some discussion that some findings were made that certain after-market catalysts were not durable. Mr. Hess added that the Metropolitan Transportation Commission (MTC) and the District are discussing pilot program with the ARB on this matter, and will start the program next year under the auspices of Congestion Management Air Quality (CMAQ) funding.
- regarding such high mileage vehicles as retired police cars that are discarded and recycled into the passenger fleet, these are generally well-maintained up to 100,000 miles. It is the taxi drivers that buy these vehicles and drive them up to 500,000 miles and more.
- BAR does quantify fleet emissions, and provides the data to the ARB that considers these data in the modeling. BAR also calculates emissions by model year and uses a conversion formula for grams per mile. Mileage data is available from the Smog Check program, and these data can be converted into estimates of tpd. This data is available to this Air District.

Mr. Kurucz identified the connections between the Advisory Council's recommendations and the updates to the Enhanced Smog Check program, as follows:

- Recommendation No. 1 on making sure that repairs are robust, BAR has used that as part of its mission. (Mr. Amlin added that repairs will be further addressed through off-cycle RSD tests, and more stringent cut-points on failed vehicles to enforce more effective repair efforts.)
- Recommendation No. 2 on District participation in an ARB remote sensing program, that is under way, but exclusively under the aegis of the ARB.
- Recommendation No. 3 on continuation of vehicle buy-back programs, that has now resumed with the advent of additional funding
- Recommendation No. 4, the elimination of the two-year waiver program is under consideration but is buttressed with funding for repair subsidy from the Consumer Assistance Program.
- Recommendation No. 5 on increasing vehicle registration fees was supplanted by BAR with increasing the Smog Check fee increase, with the funding going to the same programs identified by the Council to improve repair assistance and make buy-back more attractive.
- Recommendation No. 6 on eliminating the 30-year rolling exemption as of vehicles manufactured 1974 and earlier is supplanted by the 1976 model year.
- Recommendation No. 7 on the annual inspection and maintenance of high-use government and private fleet vehicles, BAR supports the concept but the language in the bill requires follow-up.
- Recommendation No. 8, on the time frame for replacing oxygen sensor devices and catalytic converters, there are pilot programs for this in which the Air District is participating, and there is oversight on the longevity of after-market equipment.
- Recommendation No. 9 on collection of data from roadside tests, BAR is sharing this with ARB for incorporation into fleet emission models. BAR has data on the re-entry of high mileage vehicles into the fleet, and notes continued use is a key factor in evaluating this issue.

4. Report of the Public Health Committee Meeting of October 25, 2004. Ms. Weiner reviewed the Committee's recommendations on whether the type of real-time optical sensing monitoring equipment in operation at the ConocoPhillips refinery should be applied to other Bay Area refineries. Over several meetings, speakers from industry, District staff, affected communities, the refineries and optical monitoring technology addressed the Committee on this issue. The Committee found no correlation between monitoring data and the episodic events and therefore does not recommend extending this technology to other refineries. However, residents in communities near the Rodeo refinery felt reassured by the data and proposed some refinements in the current refinery monitoring systems, some of which are included in the Committee's seven recommendations. District staff present at the meeting concurred with the recommendations, with a few minor adjustments, with the goal of improving public access to refinery emissions data. In Council member discussion of the recommendations, the following points were made:

If implemented, this monitoring program should be applied to all major industries within the Bay Area (Glueck).

Expanding these recommendations beyond refineries should be taken up next year (Torreano).

Real-time data posted on the website must be accurate. While the monitoring program recommended can potentially have great longevity, it can obtain major public involvement. (Altshuler)

Data from The Continuous Emission Monitors (CEMs) inside stacks and other instrumentation will not necessarily reflect ambient concentrations. If the community is going to review this data in the context of working through its concerns, the data need to be reliable. (Hayes)

The posting of real-time data may help reduce the number of telephone calls to the District on the subject of emissions, especially if the data are made understandable to the public. (Bhandari)

While fence line monitors did not *per se* detect potential releases they did improve the relations between neighboring communities and the refineries. This is to be encouraged not merely for refineries but for any industrial plant in the Bay Area and downwind neighbors. (Hanna)

Chairperson Blake called for public comment, and the following individual spoke:

Dennis Bolt

Western States Petroleum Association

stated that the Committee originally started working on a referral that concerned on whether or not to provide the community with real-time information from optical fence line monitors during accidental release incidents. The recommendations offered do not do that, but instead address Ground Level Monitors (GLMs), which cannot be used for episodic events. Such releases are vented high into the atmosphere above the facility. While the refineries are not opposed to increased transparency, they do oppose being monitored out of context with emissions generated elsewhere in community and region: if the recommendations applied to all GLMs in similarly situated facilities, the refineries would not be in opposition. Mr. Bolt proposed several edits to the recommendations, in which references to refineries would be replaced with "major sources" or "facility" as appropriate, in order to apply the recommendations in a uniform and equal manner to all major facilities and place the emissions data in context.

Chairperson Blake inquired if there were issues implicit in an expanded recommendation to cover all major facilities. District Counsel, Brian Bunger, observed that there are about 10,000 total CEMs in the Bay Area. Mr. Hess added that the task of prioritizing them would be considerable. Mr. Hayes observed that the CARE program will determine where the areas are with the major concerns over air toxics and prioritization will occur as a consequence. Dr. Bornstein suggested the Council review this issue next year and consider in the possibility of including a screening model. Mr. Altshuler added that the Committee's recommendations do not concern fence line but rather District monitors, and these are located at sites most located in areas of public concern.

Mr. Torreano moved adoption of the recommendations; seconded by Dr. Holtzclaw; carried by acclamation, with Messrs. Hayes, Bornstein, Glueck and Hanna abstaining.

Chairperson Blake stated she would like to present the report as information to the Board, with the sense that the issues may be expanded next year. Mr. Bunger added that all Advisory Council recommendations are presented to the Board, and the ten affirmative votes just cast will forward this as an action item to the Board. When these recommendations are presented to the Board Executive Committee, it could be explained at that time that there were several abstentions.

9. **Report of Advisory Council Chair.** Chairperson Blake stated that on September 29, 2004 she presented several Council recommendations to the Board Executive Committee. Mr. Bunger noted that the Executive Committee received the recommendations and forwarded them in its report to the full Board at the November 3 Regular meeting. Chairperson Blake added that the California Performance Review commission recommendation to eliminate the ARB has apparently now been given low priority. While the District sent a letter to the Governor opposing the proposed abolition, the review process has not ceased, and a final answer on the recommendation is pending.

Chairperson Blake thanked the Councilmembers for their excellent attendance at Committee and Regular meetings, and the District staff for its support of Council activities throughout the year.

10. **Council Member Comments/Other Business.** Mr. Bhandari stated that due to increased work in his architectural firm he would have to resign from the "Architect" category at the end of this year, which also completes the term that he filled when he was appointed to the Council last March.

Mr. Bramlett stated that it is confusing to see that the problem statement on refinery fence line monitoring that was adopted in January for the recommendations addressed by the Public Health Committee now being questioned or challenged. Notwithstanding that there are concerns on the issues of the breadth of the recommendations, the scope of the referral was defined in the original problem statement. At the January Retreat, the Council will need to establish clearer ground rules so as to clarify the process by which it reviews staff referrals and Committee recommendations.

Mr. Dawid distributed a letter to him from the Executive Officer of the ARB on AB 2683.

11. **Time and Place of Next Meeting.** 10:00 a.m., Wednesday, January 12, 2005, location to be announced.

12. **Adjournment.** The meeting was adjourned at 12:45 p.m.

James N. Corazza
Deputy Clerk of the Boards