

BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Approved Minutes: Board of Directors Regular Meeting – June 2, 2004

**Call To Order**

Opening Comments: Chairperson Scott Haggerty called the meeting to order at 9:53 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Roberta Cooper, Mark DeSaulnier, Erin Garner, Jerry Hill, Nate Miley, Julia Miller, Mark Ross, John Silva, Pam Torliatt (9:55 a.m.), Marland Townsend (10:01 a.m.), Gayle Uilkema.

Absent: Chris Daly, Liz Kniss, Patrick Kwok, Jake McGoldrick, Tim Smith, Brad Wagenknecht, Shelia Young.

Pledge of Allegiance: Director DeSaulnier led the Board in the Pledge of Allegiance.

Commendations/Proclamations: There were none.

**Public Comment Period:** There were none.

**Consent Calendar (Items 1 – 4)**

1. Minutes of May 19, 2004
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council – There was no report.
4. Set Public Hearing for July 7, 2004, to Consider Approval of Proposed Amendments to District Regulation 8, Rule 8: Wastewater (Oil-Water) Separators, and Proposed Amendment to Section 101 of Regulation 8, Rule 18: Equipment Leaks

*The proposed amendments to Regulation 8, Rule 8: Wastewater (Oil-Water) Separators are the result of Further Study Measure FS-9 in the 2001 Ozone Attainment Plan. The amendments will reduce volatile organic compound (VOC) emissions from wastewater collection systems at refineries by requiring controls on process drains, manholes, junction boxes, sumps and lift stations that leak in excess of 500 ppm concentrations. The amendments would also require an inspection and maintenance program to maintain controls. An amendment to Section 101 of Regulation 8, Rule 18: Equipment Leaks would make this rule consistent with the new requirements in Regulation 8, Rule 8.*

**Board Action:** Director Brown moved approval of Consent Calendar Items 1 through 4; seconded by Director Miller; carried unanimously without objection.

## Committee Reports and Recommendations

### 5. Report of the Mobile Source Committee Meeting of May 20, 2004

*Actions: The Committee recommended Board approval of the following:*

- A) Ad Mail as the contractor for the FY 2003/2004 Vehicle Buy Back Program direct mail service provider and authorize the Executive Officer/APCO to execute a contract for up to \$90,000 with Ad Mail to provide direct mail services for the program with the option to renew the contract for an additional year at the Air District's discretion and;*
- B) Staff comments regarding proposed modifications to the Air Resources Board's fleet rule for transit agencies, with the inclusion of additional comments provided by Committee members on the need for consideration by the Air Resources Board of: the potential health effect of NO<sub>2</sub> emissions, and the certification of bio-diesel engines.*

Director Hill presented the report and stated that the Committee met on Thursday, May 20, 2004. Staff presented a report on the direct mail service contractor selection for the Vehicle Buy-Back Program and reviewed the bid proposal process and the criteria used to select the direct mail service provider. The Committee recommends the Board approve the following:

1. Selection of Ad Mail as the contractor for the fiscal year 2003/2004 direct mail service, and
2. Authorize the Executive Officer to execute a contract for up to \$90,000 with Ad Mail, with the option to renew the contract for one additional year at the Air District's discretion.

Staff presented a report on the proposed modifications to the California Air Resources Board's (CARB) Public Transit Bus Fleet Regulation. Modifications to the rule include the following: 1) add model year 2004-2006 diesel hybrid electric bus (HEB) standards for NO<sub>x</sub> and PM<sub>10</sub>; 2) CARB would approve each diesel HEB purchase; 3) for the purchase of diesel HEBs, require emission reduction to offset the difference between diesel HEBs NO<sub>x</sub> emission certification and the NO<sub>x</sub> standard of 0.5 g/bhp-hr; 4) reduce the zero emission bus (ZEB) demonstration program to three buses per project; and 5) revise the start of the ZEB demonstration project to February 28, 2006. Staff supports the proposed changes to the current regulation, including offering a range of compliance options for those transit agencies on the diesel compliance path. There was discussion on the use of bio-diesel engines as an alternative for agencies on the diesel compliance path; and on the formation of NO<sub>2</sub> emissions when after treatment devices are used and the resulting health affects. There were four speakers on this agenda item.

The Committee recommends Board approval of the staff comments on CARB's proposed modifications to the Public Transit Bus Fleet Regulation, including the additional comments on the need for consideration by CARB of the potential health effects of NO<sub>2</sub> emissions and the certification of bio-diesel engines.

The June 10<sup>th</sup> meeting has been cancelled. The next regularly scheduled meeting of the Committee is Thursday, July 8, 2004.

**Board Action:** Director Hill moved the Board approve the recommendations of the Mobile Source Committee; seconded by Director Cooper; carried unanimously without objection.

6. Report of the Regional Agency Coordinating Committee Meeting of May 21, 2004

Director DeSaulnier presented the report and stated that the Committee met on Friday, May 21, 2004 at MetroCenter in Oakland.

Dr. Timothy Lipman of the Energy and Resources Group and the Institute of Transportation Studies at UC-Berkeley gave a presentation on hydrogen and fuel cell technologies, as well as recent government initiatives for hydrogen and fuel cells.

Air District staff presented a summary of the U. S. EPA's recent designations, classifications, and implementation rule for the national 8-hour ozone standard, and the implications for the Bay Area.

MTC and ABAG staff presented updates regarding MTC's draft transportation and land use platform for the Transportation 2030 Plan and the regional agencies' smart growth implementation program. The next meeting will be at the call of the Chair.

**Board Action:** None. This report provided for information only.

7. Report of the Stationary Source Committee Meeting of May 24, 2004

Director DeSaulnier presented the report and stated that the Committee met on Monday, May 24, 2004. Staff provided a report on the proposed amendments to Regulation 8, Rule 8: Wastewater (Oil-Water) Separators. The report included a description of the refinery wastewater system, the rule development process, the proposed amendments and future steps. The amendments would reduce volatile organic compound (VOC) emissions by 2.1 tons per day and the cost effectiveness is \$1,900 to \$4,300 per ton. There were two speakers on this agenda item. The Committee members offered recommendations to staff to explore proposed amendments to the rule.

Staff provided a summary of the Supplemental Environmental Projects (SEP) distribution and reviewed the steps necessary for a project to qualify for SEP funding. The SEP categories are: public health, pollution prevention, pollution reduction, environmental restoration and protection, environmental compliance audits, comprehensive environmental training, and emergency planning and preparedness. Staff reviewed the SEP projects in Martinez (\$270,000); Rodeo (\$50,000); East Palo Alto (\$50,000); and Livermore (\$25,000). All of the projects were selected in accordance with the policy. The current policy is very restrictive and direction was given to staff to look at the current policy to see if a certain amount flexibility can be used in the establishment of the criteria for the allocation of funds that could go to regional projects.

The next meeting of the Committee is scheduled for Monday, July 26, 2004.

**Board Action:** Director DeSaulnier moved the Board approve the report of the Stationary Source Committee; seconded by Director Torliatt; carried unanimously without objection.

## **Public Hearings**

### 8. Continued Public Hearing and Consideration of Proposed Amendments to District Regulation 3: Fees

*The Board continued the public hearing from its April 21, 2004, meeting and considered adoption of proposed amendments to District Regulation 3: Fees, and authorization of filing of a CEQA Notice of Exemption.*

The Public Hearing was continued at 10:04 a.m. Brian Bateman, Director of Engineering, presented the report and reviewed the fee proposal. Overall there will be an 8.5% increase in fee revenue. Mr. Bateman reviewed the projected revenue and estimated costs for fiscal year 2004/2005. Based on Board input and public comments, the revised Title V fee proposal was issued on May 12, 2004. The revisions include the establishment of Title V public hearing fees to recover the cost of distributing public hearing notice and the cost of holding public hearings (with a maximum of \$5,000 per hearing). The actual cost of holding the public hearings is between \$10,000 and \$20,000, which does not include the cost of the distribution of the public hearing notices.

Staff recommends that the Board adopt the proposed amendments to District Regulation 3: Fees and authorize the filing of a California Environmental Quality Act (CEQA) Notice of Exemption.

There was considerable discussion on the cost of the public meetings, which are required by the Environmental Protection Agency (EPA). The Board requested staff provide a written breakdown of the costs for these meetings and bring it back to the Budget and Finance Committee for review. The discussion included the importance of the meetings, the cost recovery study, and that there should be a partnership with the jurisdictions where the meetings are held.

There were not speakers on this item.

Director DeSaulnier moved to close the public hearing at 10:33 a.m.; seconded by Director Townsend; carried unanimously without objection.

**Board Action:** Director DeSaulnier moved to approve the proposed amendments to District Regulation 3: Fees and authorize the filing of a CEQA Notice of Exemption; seconded by Director Townsend; carried unanimously with the following Board members voting:

AYES: Brown, Cooper, DeSaulnier, Garner, Hill, Miley, Miller, Ross, Silva, Torliatt, Townsend, Uilkema, Haggerty

NOES: None.

ABSENT: Daly, Kniss, Kwok, McGoldrick, Smith, Wagenknecht, Young.

**Adopted Resolution No. 2004-10: A Resolution of the Board of Directors of the Bay Area Air Quality Management District Approving the CEQA Notice of Exemption for Amendments to Regulation 3 – Fees**

**A Resolution of the Board of Directors of the Bay Area Air Quality Management District Amending Regulation 3 – Fees**

9. First of Two Public Hearings to Consider Proposed District Budget for FY 2004/2005

*Pursuant to Health and Safety Code Section 40131, Jack P. Broadbent, Executive Officer/APCO and Wayne Tanaka, Director of Administrative Services, presented the Fiscal Year 2004/2005 Proposed Budget to the Board of Directors for the first of two required public hearings. Final action will be taken at the conclusion of the second public hearing on this matter scheduled for June 16, 2004.*

The Public Hearing was opened at 10:34 a.m. Mr. Broadbent presented his report and reviewed the Air District's direction, which includes establishing key initiatives, maintaining fiscal integrity, and building public support.

Mr. Broadbent highlighted the key initiatives as follows:

- Update and enhance the Ozone Plan.
- Conduct Bay Area risk Characterization and Reduction Program (CARE).
- Enhance the efficiency of the District

Wayne Tanaka, Director of Administrative Services, presented the proposed budget for fiscal year 2004/2005 and reviewed the projected revenue and expenditures. Mr. Tanaka stated that staff will go back to the Budget and Finance Committee for any changes that may occur when the state budget is passed.

Mr. Tanaka reviewed the consolidated sources of revenue and available financing to fund the current expenditures. The Transportation Fund for Clean Air (TFCA) expenditures were also reviewed. Director Townsend requested clarification on the almost 200% increase in expenditures under Printing & Reproduction listed in the TFCA Fund Expenditures. Staff will provide the information on the increase at a later date.

In response to a question from Chairperson Haggerty, Mr. Tanaka stated senior staff met and came up with some proposed cuts that would be across the board. Mr. Tanaka stated he did not want to prepare a definitive answer to the amount of money that will be cut until the state budget is passed. Mr. Broadbent added that the budget before the Board has been cut and that the next step is the proposed additional cuts. Mr. Broadbent noted that staff has identified a series of cost and salary savings. Discussions with the Employees' Association have been initiated in accordance with instructions received from the Budget and Finance Committee.

There were no speakers on this agenda item.

**Board Action:** Director Ross moved the public hearing be continued to June 16, 2004; seconded by Director Torliatt; carried unanimously without objection.

**Other Business**

10. Report of the Executive Officer/APCO – Mr. Broadbent reported on the following:

1. The Spare the Air campaign has started as of June 1<sup>st</sup> and there will be a press conference on June 16<sup>th</sup> to announce enhancements to the Spare the Air program.
2. A sample of the wrap for the BART trains was shown to the Board members.
3. The Spare the Air website is [www.sparetheair.org](http://www.sparetheair.org).

11. Chairperson's Report - Chairperson Haggerty stated he had nothing to report.

**Closed Session** (The Board adjourned to Closed Session at 11:00 a.m.)

12. Conference with Legal Counsel

A. Existing Litigation:

*Pursuant to Government Code Section 54956.9(a), a need existed to meet in Closed Session with legal counsel to consider the following cases:*

1. **New United Motors Manufacturing, Inc. v. Bay Area AQMD, et al.**, Alameda County Superior Court, Case No. RGO 04-140445
2. **City of Morgan Hill, Santa Teresa Citizen Action Group, Inc., Demand Clean Air, Inc. and Californians for Renewable Energy, Inc. v. Hearing Board of the Bay Area AQMD, et al.**, California Court of Appeals, First Appellate District, Division 4, Case No. A102518 (on Appeal from Judgment following Demurrer in San Francisco County Superior Court, Case No. CPF-02-501624
3. **Alvin J. Greenberg, Ph.D. v. Bay Area AQMD, et al.**, United States District Court, N.D. Cal., Case No. C 02 1501 VRW

**Open Session** (The Board reconvened to Open Session at 11:14 a.m.)

Brian Bunger, Counsel, reported that the Board met in Closed Session on Item 12A, one through three on the agenda. On items one and two, the Board heard reports from Counsel and provided general direction. On item three, the Board approved a settlement, the terms of which will become available once the plaintiff in that case signs the agreement.

13. Board Members' Comments – There were none.

14. Time and Place of Next Meeting - 9:45 a.m., Wednesday, June 16, 2004, 939 Ellis Street, San Francisco, California.

15. Adjournment: The meeting was adjourned at 11:15 a.m.

*/s/ Mary Romaidis*

Mary Romaidis  
Clerk of the Boards