

**Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 771-6000**

APPROVED MINUTES

Summary of Board of Directors
Climate Protection Committee
9:30 A.M., Thursday, March 13, 2008

- 1. Call to Order - Roll Call:** Chair Pamela Torliatt called the meeting to order at 9:35 a.m.

Present: Pamela Torliatt, Chair, Tom Bates, Chris Daly (9:40 a.m.), Scott Haggerty, Jake McGoldrick (9:45 a.m.), Mark Ross, Gayle B. Uilkema (9:40 a.m.).

Absent: John Gioia, Yoriko Kishimoto.

Also Present: Tim Smith.

- 2. Public Comment Period:** The Chair called for public comment and the following individuals spoke:

Hank Ryan
Small Business California
2311 Taraval Street
San Francisco, CA 94116

John Mikulin
California Council for
Environmental and Economic Balance (CCEEB)
100 Spear Street, Suite 805
San Francisco, CA 94105

Dennis Bolt
Western States Petroleum Association
785/E2 Oak Grove Road
Suite 306
Concord, CA 94518

Mr. Ryan made comments regarding on-bill financing, Energy and Technology Advancement Advisory Committee (ETAAC) recommendations to CARB, and recommended fee waivers for used restaurant equipment from the Department of Alcoholic Beverage Control (ABC).

Messrs. Mikulin and Bolt both added comments following Agenda Item 4. Mr. Bolt made additional comments after Agenda Item 5.

- 3. Approval of Minutes of December 13, 2007:** Director Uilkema moved approval of the minutes; seconded by Director Daly; carried unanimously without objection.

4. Report on Greenhouse Gas (GHG) Fee Schedule: *The Committee received a report from staff regarding the proposed amendments to the Air District's Regulation 3: Fees and the new fee schedule to address climate protection activities.*

Brian Bateman, Director of Engineering, introduced his report with an outline of the four topics discussed: Background information, proposed Greenhouse Gas Fee Schedule details, workshop comments, and the remaining rule development schedule.

Mr. Bateman described the Air District's authority to assess fees from regulated facilities for Climate Protection Program cost recovery, and stated there is a \$16-17 million cost-recovery gap. Property taxes in the Bay Area Air District provide another source of county revenue, which has been used to fill this gap in fiscal year ending 2007. Staff feels reducing this gap is good public policy for use in funding air quality projects that are without dedicated funds. This proposal for a greenhouse gas fee schedule includes the intention to recover program costs through fees from stationary sources, and an overall package of fee amendments to be effected in the next fiscal year, beginning July 1. The greenhouse gas fee schedule would generate approximately \$1.1 million for the next fiscal year budget.

In reviewing the Greenhouse Gas Fee Schedule details, Mr. Bateman presented a summary of Climate Protection Program activity costs for stationary sources including the following:

- Greenhouse gas emissions inventory; the cost of work additional to information previously collected from permitted facilities, updates, and maintenance.
- Research into greenhouse gas emission reduction opportunities.
- Consideration of greenhouse gas issues in connection with rules and regulations primarily focused on criteria pollutant emission reductions, which may also affect greenhouse gases.
- Incorporation of climate protection considerations into regulatory measures.
- Costs associated with measures promoting energy efficiency.
- Work groups for different types of source categories, to provide information to ARB on sources and expertise on emission reduction opportunities.
- Costs for the Air District as a responsible agency, i.e. in an advisory capacity to lead agencies, on addressing climate protection issues in California Environmental Quality Act (CEQA) documents.
- Miscellaneous costs related to tracking Assembly Bill 32 (AB32) involvement not necessarily directly attributable to stationary sources. Emissions from stationary sources are about a third of the total Bay Area inventory; therefore, approximately a third of the total miscellaneous costs are attributed to stationary sources.
- Indirect costs beyond staff salaries and benefits.
- Services and supplies; mainly a software development contract, to take advantage of ARB mandatory reporting of greenhouse gases by large facilities, to promote consistency and decrease duplication in that effort.

The grand total projection for the next fiscal year for all of these activities is approximately \$1.1 million.

Mr. Bateman explained that the fee schedule proposed is emissions-based. A table of GHG emissions from permitted facilities was reviewed showing carbon dioxide as the largest contributor at 96% of the total, methane (CH₄) as the second at 3.6%, hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs)—compounds that are used primarily in the electronic industry—as the third at under 0.4%, and nitrous oxide (N₂O)—primarily a product of combustion—as the fourth and last at under 0.1% of the total. The fee rate (\$0.042 per metric ton of Carbon Dioxide Equivalent Emissions CO₂e) was calculated using total cost (\$1.1 million) divided by total CO₂-equivalent emissions (26.4 million metric tons CO₂e). A chart of global warming potentials for GHG, including non-CO emissions called halogenated compounds that contain chlorine or bromine and have significantly higher global warming potentials than CO₂ while emitting far less, and CFCs, which are being phased out, was reviewed.

Types of permitted facilities subject to fees were displayed with their corresponding fee percentages and ranges. Petroleum refineries would pay approximately one half of the fees. Power plants, ranging from small facilities involved in distributed generation to large centralized plants, would have a wide range of annual fees, and collectively would pay about one-third of the fees. Landfills have both methane and CO₂ emissions. The sole cement manufacturing plant in the Bay Area would account for 4% of fees, and a variety of other facilities comprise the remaining 5%. A chart of fees according to number of facilities followed.

Mr. Bateman continued with a summary of comments and concerns received from the public and from groups, both in support of and in opposition to the fee schedule. The general feeling among opposition groups was that greenhouse gases should be regulated at the state level by the AB32 process, or possibly at the federal level.

Other comments revolved around equity, in terms of how fees are assessed, and the fundamental difference in biogenic CO₂ emissions from solid waste and wastewater treatment facilities. Mr. Bateman introduced a carbon cycle diagram, simplified to indicate the progression of emissions from waste, respiration and sometimes-called anthropogenic emissions. Short-term cycles, not generally associated with CO₂ emissions increases, and long-term cycles, involving fossil fuel combustion and calcining of limestone, were explained. The long-term cycle is linked to increases of CO₂ in the air and climate change. Biogenic CO₂ makes up only 4% of the total inventory from permitted sources; therefore serious consideration is being given to not assess fees for it. Committee members were encouraged to provide their thoughts on a proposal to increase fee rates by 4% (from about 4.2¢ to 4.4¢) to offset this. A variety of other comments involving the economy, possible conflicts of interest, costs to consumers, potential exemptions, and the currency of state and federal agency information were reviewed.

Mr. Bateman concluded his presentation with the rule development timeline, indicating the workshop and briefings already given, and noting the intended presentation to the Board of Directors on April 16, to be followed by a hearing on June 4th for the Board to consider adoption, with the beginning of the next fiscal year as the effective date of the amendments.

Chair Torliatt acknowledged the arrival of Directors McGoldrick, Daly and Uilkema, as well as the presence of Director Smith.

Director Haggerty inquired about the AB32 Implementation Group. Mr. Hilken responded that it is a coalition of industries, comprised of more than 120 organizations, not appointed by the Governor. Mr. Bateman answered a question from Director Torliatt about methane at wastewater facilities, saying that methane from such a facility is generally run through engines or flared rather than vented into the atmosphere; otherwise, it would not meet Air District requirements.

John Mikulin of the California Council for Environmental and Economic Balance (CCEEB) commented on a letter submitted to the Air District by CCEEB, regarding authority for assessing fees, concern about a regional emissions inventory, concern regarding ARB fees, and the potential for using greenhouse gas studies for NOx rule development. Mr. Mikulin further encouraged continuation of help the Air District provides to ARB in AB32 regulation development, and suggested that fees be reduced to costs associated with those efforts to work with ARB.

Dennis Bolt of the Western States Petroleum Association commented on perceived inconsistencies, AB32 preemptive authority, and the legal analysis thereof. Mr. Bolt asserted his organization does not believe the Air District has statutory authority to adopt and enforce rules on stationary sources for greenhouse gases. Mr. Bolt also requested that the Air District postpone the fee schedule for one year.

5. Discussion on Local Government Assistance and CEQA White Paper: *The Committee received an update on Air District activities to support local government climate protection efforts and on the California Air Pollution Control Officers Association (CAPCOA) “CEQA and Climate Change” white paper.*

Jean Roggenkamp introduced Air District Principal Environmental Planner, Ana Sandoval. Ms. Sandoval outlined various needs of local governments with regard to climate protection activities, i.e., a framework or guidance, climate-specific expertise, resources for project implementation, and support resources such as telephone support and mentors.

Ms. Sandoval elaborated on a list of Air District activities being conducted to assist local governments:

- 15 climate action plans, seven new permanent municipal energy staff, and interns and consultant assistants all supported through the Climate Protection Grant Program.
- Ongoing mentoring and grantee progress tracking by Abby Young, Air District Principal Environmental Planner.
- Referrals to established methodology, mainly ICLEI Local Governments for Sustainability, through a series of workshops on community-wide inventory development, municipal-level inventory development, building climate action plans, and selecting strategies for those plans.
- Air District inventory development staff assistance and information.
- Collaborations with PG&E, MTC, and ICLEI to provide data for capacity building;
- Presentation at an EPA grant-writing and grant-seeking workshop.

- Co-sponsorship of a Local Government Commission workshop series on “CEQA and Climate Change” white paper.
- Partnerships with the Climate Action Working Group, the Joint Policy Committee (JPC) and the San Francisco Bay Conservation Development Commission (BCDC), working with California Air Resources Board (CARB) on the scoping plan, collaborating on the California Climate Action Registry (CCAR) protocol development of local government municipal inventories and community-wide inventories.
- Other regional and state partnerships.

In summary, Ms. Sandoval stated that the Air District has long provided assistance to local governments in the climate protection planning process; also providing assistance in the development of climate action plans through workshops and the grant program and communication of best practices.

In future plans, the Air District will be participating in the Local Government Commission CEQA workshop. In terms of General Plans, Air District staff also field phone inquiries on how to incorporate greenhouse gas emission reduction strategies into General Plan updates, and will be drafting air quality element guidelines that will address climate protection.

Mr. Hilken clarified that the guidelines would be in the form of recommended language for General Plan policies and implementation programs. Director Uilkema thought that cities within her district could use help from the District determining language to include in modifying General Plans.

Ms. Sandoval outlined the CEQA process:

- Board member interest in Air District assistance to local governments on CEQA,
- Need for framework and guidance for local governments on how they should act with regard to CEQA and greenhouse gases
- Attorney General threatened to sue or sued on a number of cases throughout California
- Lack of clarity regarding the role of CEQA; CAPCOA and California Air Districts worked together on a subcommittee and published a document called CEQA and Climate Change, a white paper on CEQA and greenhouse gases, to address this gap in the CEQA framework.

Ms. Sandoval explained that the paper explores multiple threshold options for lead agencies to consider, and presents:

- Tools to quantify the impacts of greenhouse gases for distinct projects
- An exhaustive list of mitigation measures, and analysis of how effective they are

The next step is for districts individually to explore the local guidance. Ms. Sandoval concluded the presentation with a list of future work that the Air District plans to undertake, including working with Institute for Local Government (ILG) on a Bay Area pilot best-practices internet portal, to be taken statewide thereafter, development of guidelines under CEQA and General Plan, and plans to host a regional summit in 2009 focused on local government activity. Ms. Sandoval thanked the members.

Director Ross commented on the scope of efforts in the air quality field and a list of possible action items, then inquired about the possibility of distributing a short list of things communities can do in the next 12 months while budgets are being developed for the next fiscal year.

Director Bates felt this was a good idea, in line with LED lights in smart light programs, and promoted the idea of a top 5 things to do as a local government to make a difference in climate change list along with a press release to circulate among jurisdictions. Mr. Ross followed up, suggesting carbon-neutral operations logistics as an item the Air District could help municipalities with.

Chair Torliatt requested that copies of CAPCOA's white paper be distributed, or a link to the document provided, and opined that the Air District needs to take into account the white paper issues and thresholds, and develop standards for comments on greenhouse gas emission reductions on major environmental impact reports (EIRs), as is done with air quality issues. Chair Torliatt also requested that the Local Government Commission workshop be taped for broadcast or webcast and then opened the floor for public comments, recognizing Mr. Ryan again.

Mr. Ryan followed up on his earlier comments regarding on-bill financing, resulting in a request for information from Director Bates and Chair Torliatt.

6. **Committee Members' Comments:** Director Daly requested staff assistance regarding a local tax on GHGs, and clarified that it would be a tax rather than mitigation fees, although he said he was open to other ideas.
7. **Time and Place of Next Meeting:** at the Call of the Chair.
8. **Adjournment:** The meeting was adjourned at 11:01 a.m.

/s/Jean Marie Mink
Jean Marie Mink
Temporary Executive Secretary