

Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109  
(415) 749-5000

Board of Directors' Regular Meeting  
March 4, 2009

### **APPROVED MINUTES**

**Call To Order:** Chairperson Pamela Torliatt called the meeting to order at 9:45 a.m.

Roll Call: Chairperson Pamela Torliatt, Vice Chairperson Brad Wagenknecht, Secretary Tom Bates, Harold Brown, Chris Daly, Dan Dunnigan, John Gioia, Carole Groom, Scott Haggerty, Jennifer Hosterman, Yoriko Kishimoto, Carol Klatt, Liz Kniss, Nate Miley, Mark Ross, Michael Shimansky, Gayle Uilkema, Ken Yeager, Shirlee Zane

Absent: Susan Garner, James Spering

Pledge of Allegiance: Chairperson Torliatt led the Pledge of Allegiance.

### **Public Comments:**

Cameron Wilson, Global Community Monitor, West Oakland, presented a signed petition regarding CASS Metals permit.

**Oath of Office:** Director Shirlee Zane was given the Oath of Allegiance.

Chairperson Torliatt requested Item 11 be heard in Open Session after Committee Report 9.

### **Consent Calendar Items 1-5:**

Approval of Minutes of February 4, 2009;  
Communications;  
Quarterly Report of Division Activities - *October – December 2008*  
Quarterly Report of the Executive Office  
Consider Authorization to Enter into Contract with Management Partners Incorporated

**Board Action:** Director Brown moved to approve Consent Calendar Items 1-5; seconded by Director Gioia; carried unanimously without opposition.

## **Committee Reports:**

**Report 6.                    Climate Protection Committee Meeting**  
February 20, 2009  
Report given by Chairperson Y. Kishimoto

January 8, 2009 Committee minutes approved.

### **Discussion/Actions:**

- Received update on the Conoco Phillips funded grant program.
- Attorney General entered into a settlement agreement with Conoco Phillips; the District is expected to receive up to \$7 million which will be placed in a Carbon Offset Fund
- MOU between the Attorney General's Office and Air District identifies projects that include:
  1. Energy efficiency or conservation in existing buildings
  2. Renewable energy generation;
  3. Motor vehicle projects
  4. Cool roofs and/or pavement on existing buildings
  5. Water conservation
  6. Trip reduction
- Staff to provide update upon receipt of funds
- 2009 Climate Action Summit scheduled for May 4, 2009, Fox Theater, Oakland, Keynote Speaker – Mr. Thomas Friedman
- Summit planned in coordination with ABAG General Assembly
- Air District to participate in SB 375 and opportunities for collaboration among four regional agencies. Further discussion at next Joint Policy Committee meeting on March 20, 2009.

Next Climate Protection Committee Meeting: Monday, March 23, 2009

**Board Action:** Director Kishimoto moved to approve the report of the Climate Protection Committee; Director Uilkema seconded the motion; carried unanimously without objection.

**Report 7.                    Legislative Committee Meeting**  
February 23, 2009  
Report given by Acting Chairperson M. Shimansky

January 26, 2009 Committee minutes approved.

### **Actions:**

- Discussed and considered legislative options regarding Board size, population growth and thresholds.
- Directed staff to conduct a poll of the Board of Directors

### **Response:**

- Results of poll will be presented and discussed at the March 23, 2009 Legislative Committee meeting.

Next Legislative Committee meeting: Monday, March 23, 2009

**Board Action:** Director Shimansky moved to approve the report of the Legislative Committee; Director Uilkema seconded the motion; carried unanimously without objection.

**Report 8.                      Budget and Finance Committee**  
February 25, 2009  
Report given by Chair C. Daly

January 28, 2009 Committee minutes approved.

Presented:

Air District's Financial Audit for 2007/2008 – Recommendation:

- Board of Directors accept and file the Air District Financial Audit Report for 2007/2008, and additionally recommend that District staff: 1) update the Committee on the District's upcoming internal network scan; 2) add the San Mateo County Investment Pool to the Quarterly Update on the agenda; and 3) return to the Committee with a timeline for completion of administrative policies.

First quarter of fiscal year 2008/2009 Financial Report for Fiscal Year 2008-09:

- Comparison of revenues and expenditures, reserves, undesignated reserves and total fund balances

Proposed amendments to the Air District's Regulation 3: Fees:

- Fee regulation amendments would increase revenue by an estimated \$2.5 million, representing a 9% increase.
- Update to be provided following written comment period.
- Review and adoption scheduled by the Board of Directors April 15 and May 20, 2009.

Closed Session held: Government Code Sections 54956.9(b) and 54956.9(c), potential litigation regarding one matter; no reportable action.

Next Budget and Finance Committee Meeting: Tentatively scheduled for Monday, March 30, 2009.

**Board Action:** Director Daly moved to approve the report and recommendations of the Budget and Finance Committee; Director Dunnigan seconded the motion; carried unanimously without objection.

**Report 9.                      Mobile Source Committee Meeting**  
February 26, 2009  
Report given by Chair S. Haggerty

January 23, 2009 Committee minutes approved.

Discussion/Review:

- Received annual report on the 2008 Vehicle Buy Back (VBB) Program
- Considered recommendation from staff on changes to increase the program's effectiveness. Committee requested staff include in the recommendation a cost-effectiveness limit and the maximum range of vehicles eligible for funding under that limit. Committee Recommends that the Board of Directors:
  - Receive and file the 2008 Vehicle Buyback Program annual report
  - Increase the amount paid to \$1,000 per eligible vehicle under the program
  - Expand the range of vehicles eligible under the program to pre-1989 model years and establish a cost-effectiveness limit for the program of \$16,000 per ton of emissions reduced.
- Received informational update from staff on DOF's audit of Carl Moyer Program, Mobile Source Incentive Fund and Lower Emissions School Bus Programs – one observation identified and recommendation made; responded by staff.
- Update on Incentives Programs expenditures focusing on trucks.
- Committee provided direction to staff on additional information they would like presented at the next Mobile Source Committee meeting.
- The Committee considered staff recommendation to suspend activities under the Air District's drayage truck retrofit program and asked staff to do follow up work.
- Staff conducting survey of trucking companies and reviewing DERA funding; will review results at the Ad Hoc Committee on Port Emissions.
- Discussion to execute retrofits under the drayage truck retrofit program using TFCA dollars will be brought back to the March 18, 2009 Board of Directors meeting.

Next Mobile Source Committee meeting: Thursday, March 26, 2009

Public Comment:

Doug Bloch, Change to Win, reported Port Commission rejected timeline put forward by staff and directed them to bring back a Truck Management Plan for approval on May 21, 2009.

Board Discussion:

Shimansky: Asked about VBB eligible model years and cost effectiveness range.

Wagenknecht: Reiterated funding sources could be used interchangeably for VBB program under certain thresholds.

Miley: Noted that discussion on meeting with Port Commissioners will occur at next Ad Hoc Committee on Port Emissions meeting.

**Board Action:** Director Haggerty moved to approve the report and recommendations of the Mobile Source Committee; Director Gioia seconded the motion; carried unanimously without objection.

**Report 11.**                      **Personnel Committee Meeting**  
February 18, 2009  
Report given by Chair H. Brown

November 24, 2008 Committee minutes approved.

Discussion/Review:

- Committee met in Closed Session with Mary Welch, Management Partners Incorporated.
- Proposed project schedule discussed for a 360-degree evaluation of Air District's Executive Officer and Counsel.

Recommendation:

Board of Directors' approval of project schedule outlined by Management Partners Incorporated for the 360-degree evaluation of the Air District's Executive Officer and Counsel.

**Board Action:** Director Brown moved to approve the report and recommendations of the Personnel Committee; Director Kniss seconded the motion; carried unanimously without objection.

Next Personnel Committee Meeting: Friday, March 6, 2009

Public Hearing:

**Presented by Director of Engineering Brian Bateman**

Public Hearing to consider proposed amendments:

- Regulation 11; Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations.
- Regulation 8, Rule 17: Petroleum Dry Cleaning Operations.
- Regulation 2, Rule 1: Permits, General Requirements.
- Deletion of Regulation 8, Rule 27: Synthetic Solvent Dry Cleaning Operations.
- Adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

Definition-Dry Cleaning:

- The use of solvents, other than water, to clean fabrics
- Perchloroethylene (Perc) is most commonly used solvent

Dry Cleaning Machines:

- 1<sup>st</sup> generation – transfer machines (vented)
- 2<sup>nd</sup> generation – dry-to-dry machines (vented)
- 3<sup>rd</sup> generation – closed-loop machines (non-vented)
- 4<sup>th</sup> generation - secondary control machines (non-vented)

Regulatory Overview:

*District:*

- Regulation 8, Rule 27: Synthetic Solvent Dry cleaning Operations (obsolete, to be deleted)

- Regulation 11, Rule 16: Perchloroethylene & Synthetic Solvent Dry Cleaning Operations (last updated in 2005)
- Regulation 8, rule 17: Petroleum Dry Cleaning Operations (last updated in 1990)

*State:*

- Airborne Toxic Control Measure (ATCM) (updated December 2007)

*Federal:*

- National Emission Standards for Hazardous Air Pollutants (NESHAP (updated July 2008)

**Summary of Perc Dry Cleaning ATCM Amendments:**

Effective January 1, 2008

- Prohibit new installation of Perc equipment
- Prohibit dip tanks & drying cabinets
- Enhanced maintenance and operational requirements
- Enhanced recordkeeping and reporting requirements
- New requirements for Perc manufacturers & distributors to keep records and report sales of Perc to dry cleaners

Effective July 1, 2010

- Prohibits Perc machines in co-residential facilities, converted machines, and machine solder than 15 years

Effective January 1, 2023

- Prohibits all Perc dry cleaning

Additional ATCM Amendments

- Facility must report make, model, serial number and age of machine
- Facility must have spare gaskets and lint filter on premises
- Button and lint traps must be cleaned and inspected on daily basis
- Annual leak checks with leak detector that gives quantitative result
- Shorter times allowed for repair
- Trained operator must be on site while dry cleaning equipment is in operation
- No external water repelling operations – these must be completed inside the closed-loop equipment

Proposed Amendments to District Regulation 11, Rule 16:

- Incorporate Perc phase-out and other requirements of amended Perc ATCM
- Add additional requirement more stringent than ATCM
- Retain existing requirements more stringent than ATCM

Proposed Amendments to District Regulation 8, Rule 17

- Rename Rule to Non-halogenated Solvent Dry Cleaning Operations
- Incorporate new solvents
- Require closed-loop design for new machines
- Establish leak detection and repair requirements

- Enhance recordkeeping and reporting requirements
- Prohibit spotting solutions with halogenated solvents
- Require equipment registration for machines exempt from permit requirements

Proposed Amendments to District Regulation 2, Rule 1: Permits, General Requirements

- Lower existing permit exemption-level for non-halogenated solvent dry cleaning facilities from 700 gallon/yr to 200 gallon/yr gross usage (would affect 20 of largest facilities).

Proposed Amendments to District Regulation 8, Rule 27

- Delete from District regulations
- Superseded by Regulation 11, Rule 16
- To be removed from State Implementation Plan

Rule Development Process:

September 15, 2008 - Stationary Source Committee Briefing

December 22, 2008 - Public Workshop

By February 6, 2009 - Written Comments

By February 6, 2009 - Notice of intent to adopt CEQA Negative Declaration

March 4, 2009 - Public Hearing to consider adoption

Public Comment Received:

- Dry cleaning organizations requested CARB changing effective date of amended ATCM. On January 26, 2009, CARB issued letter rejecting request.
- Dry Cleaners have an inventory of halogenated spotting solutions and need additional time to use up existing stock – Proposal modified to accommodate request (buy-prohibition begins 7/1/09; use-prohibition begins 7/1/2010).
- Closed-loop machine requirement in Rule 8-17 should be justified. Response: most regulated Perc alternatives are ozone precursors, closed-loop machines have been used by petroleum solvent facilities for many years, closed-loop machines save money over long term.
- Permit requirement for larger, non-Perc dry cleaners should be justified.

**Staff Recommendation:**

Adopt proposed amendments to:

Regulation 11, Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations

Regulation 8, Rule 17: Petroleum Dry Cleaning Operations

Regulation 2, Rule 1: Permits, General Requirements

Delete: Regulation 8, Rule 27: Synthetic Solvent Dry Cleaning Operations

Adopt: Negative Declaration pursuant to CEQA.

Board Discussion:

Haggerty: Voiced public health concerns of co-located facilities; recommended no perc machines located in a co-located facility to be effective July 10, 2009.

Bateman: The basis to phase out perc in co-located facilities is to allow facilities to purchase equipment, obtain loans, and comply with rule. He discussed requirement for a drying sensor which addresses residual solvents on garments.

Haggerty: Confirmed Rule prohibits relocation of used perc machines, regardless of age.

Hosterman: Raise industry acceptance for wet cleaning before 2023.

Bateman: Two separate projects address acceptance: 1) grants to dry cleaners to use new technologies; 2) Improvement of tensioning equipment and addressing technical issues.

Hosterman: Supported motion and recommended matter be addressed within the next year.

Broadbent: Suggested adoption of amendments and bringing back a schedule to address further elimination of perchloroethylene operations in future, citing small businesses' concerns.

Kniss: Confirmed and supported CARB's rejection to change effective date of amended ATCM; public exposure to perc.

Kishimoto: Water-based cleaning costs less, confirmed at 2010 60% of co-located facilities would be phased out, suggested potential for future District assistance with financing.

Ross: Discussed vapor barrier rooms and confirmed materials are contained.

Uilkema: Supported adoption of amendments and return with amendment in future to move up January 1, 2023 date.

Shimansky: Discussed local ordinances prohibiting use of perchloroethylene in some cities.

Groom: Supported adoption and return with amendment to rule to move up January 1, 2023 date.

Broadbent: Confirmed interest for adoption of amendments; staff to return with amendment in the future to move up prohibition of all perc dry cleaning from 2023.

Chairperson Torliatt opened the public hearing at 10:57 a.m. There were no public comments; public hearing closed.

**Board Action:** Vice Chairperson Wagenknecht moved to adopt proposed amendments to Regulation 11; Rule 16: Perchloroethylene and Synthetic Solvent Dry Cleaning Operations; Regulation 8, Rule 17: Petroleum Dry Cleaning Operations; Regulation 2, Rule 1: Permits, General Requirements; Deletion of Regulation 8, Rule 27: Synthetic Solvent Dry Cleaning Operations; Adoption of a Negative Declaration pursuant to the California Environmental Quality Act (CEQA); and direct staff to bring back a more stringent requirements; Director Brown seconded the motion; carried unanimously without opposition.

**Closed Session:**

Board of Directors adjourned to Closed Session at 11:00 a.m.

**Report 12:** Report of Budget and Finance Committee Meeting of February 25, 2009 Potential Litigation (Government Code Sections 54956.9(b) and 54956.9(c)); a need exists to meet in close session to discuss potential litigation regarding one matter.

**Report 13:** Potential Litigation (Government Code Sections 54956.9(b) and 54956.9(c))

Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session to discuss potential litigation regarding one matter.

**Open Session:**

Board of Directors reconvened at 11:20 a.m.; no reportable action taken in Closed Session.

**Other Business:**

**Report of Executive Officer/APCO:**

Winter 2008-2009 PM<sub>2.5</sub> Season.

- 13 days of PM<sub>2.5</sub> standard exceedances
- Over 1400 complaints during wood smoke season
- Investigating non-compliance to warnings
- Staff plans a review of the entire program and report back to Committees
- Press release prepared regarding public responses to warnings
- Deadline for EVR Phase II requirements for gas dispensing facilities – April 1, 2009; briefing to be provided to Board on March 18, 2009; 1/3 in compliance; 1/3 no compliance; 1/3 in permit process – staff to prepare report of stations by County for distribution to the Board.

**Chairperson Torliatt's Report:**

- June 16-19, 2009 A&WMA's 102<sup>nd</sup> Annual Conference and Exhibition – Detroit, Michigan

**Board Comments:**

Shimansky: Attended February 11, 2009 Advisory Council symposium; presentations made by:

- Alameda County, Anthony Iton, MD, JD, MPH, Health Officer & Director of Public Health
- Contra Costa County, Wendel Brunner, MD, Director of Public Health
- San Francisco City & County, Rajiv Bhatia, MD, MPH, Director of Occupational & Environmental Health
- Santa Clara County, Marty Fenstersheib, MD, MPH, Health Officer

Zane: Spoke about Sonoma County's AB 811 Program; on-line enrollment for energy efficiency, solar installation, insulation, water heaters, conservation; financing mechanism is long-term property tax assessment.

Bates: Requested notification for Spare the Air Alerts. Reported Senator Lowenthal is interested in working on legislation with the District, and thanked the District for assistance in funding BerkeleyFirst.

Kishimoto: Confirmed AB 811 programs in effect in Sonoma, Berkeley and Palm Dessert.

**Time and Place of Next Meeting:** 9:45 a.m., Wednesday, March 18, 2009  
939 Ellis Street, San Francisco, CA 94109

**Adjournment:**

Meeting adjourned at 11:39 a.m.

*Lisa Harper*  
Clerk of the Boards