

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

Board of Directors Regular Meeting  
Wednesday, October 5, 2011  
9:45 a.m.

## **APPROVED MINUTES**

**CALL TO ORDER:** Chairperson Tom Bates called the Regular Meeting to order at 9:50 a.m.

**Pledge of Allegiance:** Vice Chairperson John Gioia led the Pledge of Allegiance.

**Roll Call:**

**Present:** Chairperson Tom Bates; Vice Chair John Gioia; and Directors John Avalos, Susan Gorin, Carole Groom, Scott Haggerty, Jennifer Hosterman, David Hudson, Carol Klatt, Nate Miley, Johanna Partin, Mark Ross, James Spering, Gayle B. Uilkema, Ken Yeager and Shirlee Zane. Secretary Ash Kalra, Directors Susan Garner and Eric Mar arrived after the roll call was taken.

**Absent:** Directors Harold Brown, Liz Kniss and Brad Wagenknecht.

**PUBLIC COMMENT ON NON-AGENDA MATTERS:** Chairperson Bates opened the public comment period and there were none.

**CONSENT CALENDAR (Items 1-6):**

1. Minutes of the October 5, 2011 Regular Meeting.
2. Board Communications Received from September 21, 2011 through October 5, 2011.
3. Air District Personnel on Out-of-State Business Travel.
4. Notice of Proposed Amendments to the Air District's Administrative Code Division III Personnel Policies and Procedures – Section 11 Leave and Holidays: 11.14 Benevolent Leave Fund.
5. Notice of Proposed Amendments to the Air District's Administrative Code Division III Personnel Policies and Procedures – Section 2 Equal Employment Opportunity Policy.
6. Consider Revision of the Classification Specification of Clerk of the Boards.

**Board Action:** Director Ross made a motion to approve Consent Calendar Items 1 through 6; Director Hudson seconded the motion; which carried unanimously without objection.

## **COMMITTEE REPORTS AND RECOMMENDATIONS**

### **9. Report of the Stationary Source Committee Meeting of September 29, 2011** **Chair: Gayle B. Uilkema**

Director Uilkema reported that the Stationary Source Committee met on September 29, 2011 and approved the minutes of July 7, 2011.

The Committee received an update on proposed Draft Regulation 12, Rule 13: Metal Melting and Processing Operations. The Committee also received an update on proposed Draft Regulation 8, Rule 53: Vacuum Truck Operations.

The next meeting of the Stationary Source Committee is at the call of the Chair.

Director Miley asked about the status of the Metal Melting rule. Director Uilkema stated the Committee received updates and input, which staff will incorporate in the formulation of their proposal to the Board of Directors.

**Board Action:** Director Uilkema made a motion to approve the report of the Stationary Source Committee; Director Spering seconded the motion; which carried unanimously without objection.

### **7. Report of the Mobile Source Committee Meeting of September 22, 2011** **Chair: Scott Haggerty**

Director Haggerty reported that the Mobile Source Committee met on September 22, 2011 and approved the minutes of June 30, 2011.

The Committee received an update on the Port Drayage Truck Program.

The Committee also received an update on the Regional Bicycle Sharing Pilot project and recommended the following:

Approve San Francisco Municipal Transportation Authority's request to use fiscal year 2011/12 Transportation Fund for Clean Air County Program Manager funds as a local match for the Regional Bicycle Sharing Pilot Project, and adopt a resolution that authorizes the Executive Officer/APCO to execute the Right of Way Certification form for the Regional Bicycle Sharing Pilot Project.

The next meeting of the Mobile Source Committee is scheduled for Thursday, October 27, 2011 at 9:30 a.m.

**Board Action:** Director Haggerty made a motion to approve the report of the Mobile Source Committee; Director Hosterman seconded the motion; which carried unanimously without objection.

Director Miley said staff has been working very closely with Director Miley on the Port Drayage Truck Program to ensure the drayage trucks that are servicing ports that are registered in Alameda County have an opportunity to receive new trucks so that they do not go out of business, and obtain resources from both the Air District and the California Air Resources Board (CARB). Director Miley also thanked staff for their work.

**8. Report of the Legislative Committee Meeting of September 26, 2011**  
**Chair: Susan Garner**

Director Hudson reported that the Legislative Committee met on September 26, 2011 and approved the minutes of April 4, 2011.

The Committee received an update on the 2011 legislative year, including bills the Air District supported, opposed and sponsored.

The next meeting of Legislative Committee is at the call of the Chair.

**Board Action:** Director Hudson made a motion to approve the report of the Legislative Committee; Director Haggerty seconded the motion; which carried unanimously without objection.

Chair Bates said that SB 310 was signed into law, authored by Senator Hancock. This bill will provide financing to districts around transit.

**PRESENTATION**

**10. Overview of the Air District's Permit and Enforcement and Programs.**

Brian Bateman, Director, Compliance and Enforcement, provided the staff report. Overall goal is to implement and enforce adopted regulatory requirements to ensure that emissions are adequately controlled to achieve clean air. Those goals include:

- Protecting public health
- Avoiding public nuisances
- Protecting and improving the global climate

Air districts have direct regulatory authority over stationary sources of air pollution.

Mr. Bateman said the permit and enforcement programs make up of approximately 70% of the Air District budget which is equivalent to \$44 million per year. The costs of the programs are covered by two sources which include:

- Fees – Collected by regulated entities; and
- Property Taxes

Mr. Bateman showed the following staffing breakdown:

- Compliance & Enforcement Division
  - 104 FTEs (69 are inspection staff)
- Engineering Division
  - 68 FTEs
- Technical Services Division
  - Source testing and laboratory
  - 20 FTEs
- Legal Division
- Executive Office

Mr. Bateman stated the Air District implements a number of rules that affect stationary sources. Some of those rules include:

Type of Rule	Approx. Number of Adopted Rules	Pollutants Regulated			
		Criteria	Toxics	Odors	GHGs
District Rules	105	X	X	X	X
CARB Airborne Toxic Control Measures (ATCM)	10		X		
EPA New Source Performance Standards (NSPS)	90	X			
EPA National Emission Standards for Hazardous Air Pollutants (NESHAP)	125		X		
CARB AB-32 Rules	5				X

Criteria = Pollutants for which Ambient Air Quality Standards have been set (and their precursors)

GHGs = Greenhouse Gases

Mr. Bateman provided the Board of Directors with an overview of the various air quality permits and registrations. These permits include:

- Authority to Construct / Permit to Operate
  - 1500 – 3000 permit applications per year
  - 10,300 facilities have Permits to Operate
- Prevention of Significant Deterioration (PSD) permits
  - 1 – 5 permit applications per year
- Title V permits (Federal Operating Permits)
  - 90 facilities have Title V permits
  - 40 facilities have Synthetic Minor Operating Permits (SMOPs)
  - 50 – 100 permit applications per year
- Equipment registrations
  - 1400 sources are registered

Mr. Bateman explained the details on Authority to Construct (ATC), which included the following:

- Authority to Construct (ATC)
  - Required for new/modified sources since July 1, 1972
  - Preconstruction permit review to ensure that proposed sources and control devices meet applicable requirements

- Apply case-by-case requirements of New Source Review (NSR)
- Permit conditions
- CEQA must be addressed before an ATC is issued
- ATC issued 'Source Constructed 'Start-up period 'PTO issued
- Permit to Operate (PTO)
  - Renewed on an annual, or biannual, basis
  - By 1980, PTOs required for grandfathered sources

Director Gorin asked how are new businesses informed how they are notified about the Air District's preconstruction review. Mr. Bateman stated the businesses would need to have knowledge of the requirements and this is done through the Air District's outreach program, in addition to having information on the Air District's website.

Director Garner asked about CEQA permits: does the Air District utilize the resources of an outside consultant. Mr. Bateman stated that the applicant pays the costs of the outside consultants, and the air quality analysis is conducted in-house due to the Air District's expertise.

Mr. Bateman continued with an overview of the New Source Review. The New Source Review consists of:

- Criteria air pollutants (and their precursors)
  - Best Available Control Technology (BACT)
  - Emission Offsets
    - Emission Banking
  - Air Quality Impact Analysis
  - PSD permit requirements
    - Federal air quality permit program for projects at major stationary sources (delegated to BAAQMD)
    - Focus is on pollutants with an "attainment" designation
- Toxic Air Contaminants
  - Program began in 1987; codified into District rule in 2005
  - Requirements based on results of site-specific Health Risk Screening Analysis (HRSA)
    - Uses Office of Environmental Health Hazard Assessment (OEHHA) Health Risk Assessment Guidelines
  - Best Available Control Technology for toxics (T-BACT)
  - Project risk limits
- Greenhouse Gases (GHGs)
  - New BACT requirement for PSD permits

Mr. Bateman continued with an overview of the Title V Permits. Title V is a Federal requirement, delegated to the Air District and applies to "major stationary sources," which is based on the facilities emissions or their potential to emit. Mr. Bateman stated there are different thresholds for different pollutants. One hundred tons per year (tpy) for criteria pollutants, lower levels for toxics and for greenhouse gases the limits are higher. Mr. Bateman also stated that facilities must obtain a detailed

operating permit that lists all the applicable emission limits and compliance provisions as well as requiring recordkeeping.

Title V Permits are renewed every five years, and revised on an ongoing basis due to changes at facility or changes to rule requirements.

Mr. Bateman also provided an explanation of the Air Toxic Hot Spots Program which applies to facilities, based on their toxic emissions. This program applies to both new and existing facilities. Listed below is a summary of the program which includes:

- Statewide program that applies to existing facilities that emit toxic air contaminants
- Guidelines set by CARB and OEHHA
- Air districts implement and enforce
- Five program elements
  - Emissions inventory
  - Facility prioritization
  - Health Risk Assessment
  - Public notification
  - Risk reduction audits and plans

Mr. Bateman continued with information on the Compliance Assistance Program. The Compliance Assistance Program consists of:

- Educate and provide assistance to businesses regarding air quality requirements to increase compliance rates
- Services provided:
  - Compliance Hotline – Provides answers over the phone (> 700 per yr.)
  - Officer of the Day – Provides assistance for more complex/technical compliance issues
  - Compliance Advisories, Tips and FAQ – Informs specific industries of requirements that affect their operations (~15 per yr.)
  - Industry Compliance Schools – Educates industry on compliance with applicable requirements
    - Small Business Incentives
    - Recent schools – Mobile Coaters, Graphic Arts, Wood Coaters
  - Speakers Bureau – Subject matter experts speak to trade associations and other groups on District requirements and air quality issues

Chairperson Bates requested Mr. Bateman conclude his presentation and requested the remainder of the presentation slides 12 through 21 be heard at the next Board of Directors meeting.

Director Haggerty asked about backyard open burning and what the Air District can do it. Mr. Bateman stated this is a difficult area for the Air District and this sort of burning is not allowed on a Winter Spare the Air day. If there are documented excessive visual emissions then the individual could be cited, but it is rather difficult to do. Director Haggerty asked what is the Air District doing to address backyard burning. Jack Broadbent, Executive Officer/APCO, stated the Spare the Air Winter season begins November 1, 2011, and that staff is planning to walk through the Spare the Air Program with the Board. Mr. Broadbent also stated that burning garbage is prohibited under the Air District's rule anytime of the year.

Mr. Broadbent further elaborated stating that the Air District tries to identify what is referred to as a public nuisance. The Air District will step in when the matter is more than a private matter, affecting more than a neighbor. Brian Bunker, Legal Counsel, confirmed when there is only one other person impacted, it is considered a private nuisance. If there are a group of people then it is considered a public nuisance.

Chairperson Bates asked about outdoor burning and Mr. Bunker stated there is an exception to the rule for recreational fires, with the exception of Winter Spare the Air. Chairperson Bates also asked if the cities can provide assistance. Mr. Broadbent stated there are cities that have more stringent requirements than the Air District.

Chairperson Bates thanked Mr. Bateman for his presentation.

**Public Comment:** Chair Bates opened the public comment period.

Mr. Andy Katz, Breathe California. Mr. Katz stated the permit and enforcement programs are important for making sure we have clean air. In addition, Mr. Katz requested the Air District continue to look at cumulative impacts and how this issue will be addressed.

Director Uilkema requested a clearer understanding of enforcement program and how it is related to Title V issuance.

**Board Action:** None; receive and file.

## **11. Update on the National Ambient Air Quality Standard for Ozone**

Jean Roggenkamp, Deputy Air Pollution Control Officer provided the Board with an update on recent activity with regard to the National Ozone and provide an update on the Summer Ozone season to date.

Ms. Roggenkamp's overview consisted of:

- What is a National Ambient Air Quality Standard (NAAQS)?
- What's involved with setting the standard?
- History of the National Ozone Standard
- Recent actions by the Administration and EPA
- What does it mean for the Bay Area?
- Next steps

Ms. Roggenkamp stated the Federal Clean Air Act has a requirement that the Environmental Protection Agency (EPA) set NAAQS, which are intended to protect public health and the environment. There are primary standards that are set especially focus on sensitive individuals, the young, elderly and individuals who are currently ill, without regard to cost.

Ms. Roggenkamp said the Federal Clean Air Act also requires that the Clean Air Scientific Advisory Committee (CASAC) review the health studies that are done by universities and foundations, to look at the health effect on people when they breathe unhealthy air.

Ms. Roggenkamp stated in 2006, CASAC recommended to EPA that they set the ozone NAAQS between 0.060 – 0.070 parts per million (ppm).

Estimated Health Effects Avoided under Alternative Standard Levels.

Health Impact	0.070 ppm	0.060 ppm
Chronic Bronchitis	880	2,200
Nonfatal heart attacks	2,200	5,300
Hospital/ER visits	6,700	21,000
Acute bronchitis	2,100	5,300
Respiratory symptoms	44,000	111,000
Aggravated asthma	23,000	58,00
Days of missed work/school	770,000	2.5 million
Days of restricted activities	2.6 million	8.1 million
Avoided premature mortality	1,500 to 4,300	4,000 to 12,000

Ms. Roggenkamp stated the ozone standard has been revised at both the State and Federal levels over time, the current California 8-hour ozone standard over an 8-hour period is 0.070 ppm, and the Federal standard is currently 0.075 ppm.

Ms. Roggenkamp continued providing an update of recent Administration actions which include:

- In 2008, EPA set the ozone standard at 0.075 ppm, even though CASAC advised range of 0.060 ppm - 0.070 ppm
- In 2009, EPA initiated reconsideration of the 0.075 ppm standard considering CASAC's range; implementation of the 0.075 ppm standard was put on hold
- In September 2011, EPA withdrew its reconsideration of the 0.075 ppm standard
- EPA is now working on the implementation rule(s) for the 0.075 ppm standard

Once EPA sets a new or revised NAAQS, EPA adopts implementation rules that define:

- Designations of attainment / non-attainment
- Classifications (e.g. marginal, moderate, serious, severe, extreme)
- Deadlines for attaining the standard
- Requirements for plans, rules, programs, monitoring, modeling, conformity of transportation plans, rates of progress, etc.



Ms. Roggenkamp provided a summary of the ozone season to date. The summary includes:

<b>Year</b>	<b>NATIONAL 8-HOUR</b>	<b>STATE 1-HOUR</b>	<b>STATE 8-HOUR</b>
2010	9	8	11
2011	4	5	10

Ms. Roggenkamp provided an overview of how the Bay Area is doing relative to other major air basins in California, and the Bay Area Air District’s has the least numbers of days with exceedances and generally some of the lowest maximum values.

Ms. Roggenkamp continued that the NAAQS for the 8-hour ozone level is that you look at the fourth high for three years in a row, at each station and average the fourth high and compare it to the standard. The standard is 0.075 ppm. To determine if your region is in attainment, you look at each individual station.

Those results include:

Station	2009 4 <sup>th</sup> highest (ppm)	2010 4 <sup>th</sup> highest (ppm)	2011 4 <sup>th</sup> highest (ppm)	3 Year Average 4 <sup>th</sup> highest (ppm)
Livermore	<b>0.081</b>	<b>0.074</b>	<b>0.074</b>	<b>0.076</b>
San Martin	<b>0.077</b>	<b>0.079</b>	<b>0.068</b>	<b>0.074</b>
Concord	<b>0.073</b>	<b>0.071</b>	<b>0.075</b>	<b>0.073</b>
Bethel Island	<b>0.075</b>	<b>0.078</b>	<b>0.071</b>	<b>0.074</b>
Gilroy	<b>0.070</b>	<b>0.080</b>	<b>0.065</b>	<b>0.071</b>
Los Gatos	<b>0.077</b>	<b>0.069</b>	<b>0.065</b>	<b>0.070</b>

Ms. Roggenkamp explained the year to year variability in values due to weather patterns. In addition, Ms. Roggenkamp stated the Bay Area is currently classified as “marginal” non-attainment for 0.08 ppm standard set in 1997. Ms. Roggenkamp said the Bay Area will now be designated and classified for the 0.075 ppm standard.

Ms. Roggenkamp concluded the presentation with next steps, including:

- Continue to reduce emissions of ozone precursors through all feasible measures (2010 Clean Air Plan)
- Track adoption of EPA implementation rule(s) to determine designation, classification, planning requirements, etc.
- Likely that Bay Area will continue to be a “marginal” non-attainment area
- CASAC will likely recommend lowering the Ozone Standard when it is reviewed in 2013 based on the normal 5-year review cycle

Ms. Roggenkamp stated that ozone air quality is improving because of the work that the Board of Directors, the State and Federal levels, but we have more work to do ensure we have healthy air all the time.

Director Uilkema asked about the consequences of not meeting attainment. Ms. Roggenkamp said if we are out of attainment, there are specific requirements which may include a revised plan and implementing rules. If you submit your plan but do not attain the standard then you must update your plan.

Director Garner asked if the monitoring stations are measuring the level of ozone on a continuous basis. Ms. Roggenkamp stated the monitors operate on a continual basis. Director Garner asked about the accuracy of the equipment. Eric Stevenson, Director, Technical Services stated that for ozone instruments the level of detection is one part per billion which is extremely accurate. In addition, the instrument is calibrated every night and corrected if out of calibration. Director Garner also asked about the health impacts. Ms. Roggenkamp stated the Air District does not conduct separate health research.

Director Haggerty asked staff to include ozone in the CARE program. Mr. Broadbent stated staff will look at the ambient concentrations of regional air pollutants and have it included as part of defining the CARE communities.

**Public Comments:** None.

**Board Action:** None; receive and file.

### **CLOSED SESSION**

Chair Bates adjourned the meeting into a closed session at 11:05 a.m.

#### 12. **EXISTING LITIGATION (Government Code Section 54956.9(a))**

*Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following case(s):*

**California Building Industry Association v. Bay Area AQMD**, Alameda County Superior Court, Case No. RG-10548693

**Our Children’s Earth Foundation v. Bay Area AQMD, and Jack P. Broadbent**, San Francisco County Superior Court, Case No. CPF-11-511437

13. **ANTICIPATED LITIGATION**

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

**OPEN SESSION**

Chair Bates reconvened the meeting at 11:45 a.m. and stated the Air District has agreed to a settlement with Our Children's Earth Foundation, and provided advice relative to the other cases at this time.

**PUBLIC COMMENT ON NON-AGENDA MATTERS**

No one from the public addressed the Board at this time.

**BOARD MEMBERS' COMMENTS**

Director Garner comment was on behalf of Director Hosterman requesting the Air District revisit the vote for 390 Main Street. Other Board members spoke against that request.

**OTHER BUSINESS**

14. Report of the Executive Officer/APCO – Mr. Broadbent provided a summary of the potential move to 390 Main Street. Mr. Broadbent has agreed to provide information to the Board generated by the Metropolitan Transportation Commission (MTC) relative to 390 Main Street.

Mr. Broadbent also provided an update on the Blueprint for Healthy Communities Summit, stating that the Air District has received reimbursement from various deposits.

Mr. Broadbent also introduced the new Employee Association President, Julian Elliott. Mr. Broadbent also recognized outgoing President, Steve Chin. Mr. Chin thanked the Board for their strong support.

15. Chairperson's Report – Chairperson Bates announced the October 19, 2011 Board of Directors meeting is cancelled. In addition Chairperson Bates stated the Executive Committee will meet on October 19, 2011.

16. Time and Place of Next Meeting – At 9:45 a.m., Wednesday, November 2, 2011; at 939 Ellis Street, San Francisco, CA 94109.

17. Adjournment – Chair Bates adjourned the meeting at 12:05 p.m.

*15/ Vanessa Johnson*

Vanessa Johnson  
Executive Secretary II