

Bay Area Air Quality Management District
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APPROVED MINUTES

Summary of Board of Directors
Stationary Source Committee Meeting
10:30 a.m., Monday, March 19, 2012

1. Call to Order – Roll Call

Committee Chairperson John Avalos called the meeting to order at 10:51 a.m.

Present: Committee Chairperson John Avalos; Vice Chairperson Carole Groom; and Directors Tom Bates, Susan Garner, Eric Mar, Nate Miley and James Spring.

Absent: Directors Scott Haggerty and Mary Piepho.

Also Present: Chairperson John Gioia.

2. Public Comment Period: None.

3. Approval of Minutes of January 9, 2012

Committee Action: Director Bates made a motion to approve the Minutes of January 9, 2012; Director Spring seconded; approved unanimously without objection.

4. Proposed Amendments to Regulation 9, Rule 10: NO_x and CO from Boilers, Steam Generators and Process Heaters in Petroleum Refineries

Henry Hilken, Director of Planning, Rules & Research, introduced the agenda item and Julian Elliot, Senior Air Quality Engineer of Planning, Rules & Research, who gave the staff presentation Regulation 9, Rule 10 Mono-Nitrogen Oxides (NO_x) & Carbon Monoxide (CO) from Boilers, Steam Generators & Process Heaters in Petroleum Refineries, including background, proposed amendments, the rule development process and next steps.

Mr. Elliott noted, regarding slide 3, Background, that CO boilers are very large steam generators that use CO-rich gas as one of their fuels and are grouped separately because of the emissions challenges that result.

NOTED PRESENT: Director Mar was noted present at 11:00 a.m.

Director Bates asked, relative to slide 8, Alternative NO_x Limit, whether the average daily emissions of the new heater would be added into the total daily average for a facility. Mr. Elliott responded that it would not as this regulation only applies to pre-1994 heaters.

Committee Chairperson Avalos asked, regarding slide 7, Regulation 9-10 Overview, how often a heater that emits less than the average is replaced, if ever. Mr. Elliott responded that it is imminent, at least in the case of the Valero refinery, and this issue is the reason the rule development is in process.

Committee Chairperson Avalos asked, regarding slide 10, Rule Development Process, about responses received from refinery staff. Mr. Elliott replied that it remains to be seen as the workshop is in the immediate future. Guy Bjerke, Manager, Bay Area Region & State Safety Issues, Western States Petroleum Association, stated that the Air District is making fine progress on this rule without creating a disincentive for refineries.

Committee Comments:

Director Garner asked how the Air District monitors compliance. Mr. Elliott responded that Continuous Emissions Monitoring System is the most common and preferred method, but as this isn't cost effective in all cases, there are a number of methods utilized for smaller sources.

Committee Chairperson Avalos asked if the rule will eventually go to the Board of Directors for final approval to which Jean Roggenkamp, Deputy Air Pollution Control Officer (APCO), responded in the affirmative.

Director Bates asked how long boilers last to which Mr. Elliott responded that a decades-long lifecycle is typical. Director Bates asked if this will be a common situation for a number of refineries in the future. Mr. Elliott responded that inevitably it will be but the need to adapt to different feed stocks will result in earlier replacement in most cases.

Committee Chairperson Avalos asked when the older pre-1994 refineries first began production. Mr. Elliott speculated that the Chevron refinery is the oldest and approximated the 1930's. Chairperson Gioia responded that the first was constructed in 1905. Committee Chairperson Avalos asked if there is an average lifetime for refinery heaters. Mr. Elliott responded that it is greater than his own lifetime and the replacement cycle is a very slow process.

Director Bates asked whether the Board of Directors or the Committee might visit a refinery in the coming year to which Chairperson Gioia responded in the affirmative and that staff is working on it.

Public Comments:

Barry Chang addressed the Committee in opposition, noting that the proposals are inadequate for the protection of public health and the Air District is failing to conform to its mission statement by advancing this proposal.

Committee Action: None; informational only.

5. Update on Lehigh Southwest Cement Plant

Brian Bateman, Director of Compliance & Enforcement, gave the staff presentation Update on Lehigh Southwest Cement Plant, including background, Title V permit renewal, amended U.S. Environmental Protection Agency (EPA) Air Toxics Rule, other upcoming regulatory requirements, new and upcoming emission controls and monitors, updated emission inventory and health risk assessment, compliance status, air monitoring results, quarry reclamation plan amendment and next steps.

Mr. Bateman added, regarding slide 4, Lehigh Southwest Cement Plant, that petroleum coke is the sole fuel source at Lehigh.

Mr. Bateman added, regarding slide 5, Title V Permit Renewal Status, an explanation of the nature and purpose of the Fugitive Dust Control Plan.

Committee Chairperson Avalos asked, regarding slide 5, Title V Permit Renewal Status, if the Operations and Maintenance Plan and Fugitive Dust Control Plan are in response to the new regulations under the EPA to which Mr. Bateman responded in the negative, explaining that they go beyond those regulations. Committee Chairperson Avalos asked if this concept of control will be applied to other facilities. Mr. Bateman replied that this is the only cement plant in the Air District jurisdiction but it is entirely possible that it would be applied as warranted.

Director Bates asked if a similar approach will be taken with Hanson Aggregate and similar operations to which Mr. Bateman replied in the negative, noting that they are concrete batch plants, not manufacturing plants.

Director Mar stated that there is some public opinion that the permit should not be renewed and asked what findings would be required to deny its renewal. Mr. Bateman responded that there are very few substantive requirements imposed but instead the process takes into account factors such as compliance history in considering an applicant's capability to comply. Mr. Bateman added that this presents a high hurdle.

Director Garner asked if the old permit expired in November 2008. Mr. Bateman responded that it did not as the old permit continues in effect, under what is called an application shield, while the application is under consideration. Director Garner asked if the Air District anticipates the new permit will be issued in 2012 and what the delay in the applicability of the new standards will be. Mr. Bateman replied in the affirmative as to the permit issuance date and the applicability question should be answered by the remaining presentation.

Mr. Bateman noted, in reference to slide 6, Amended EPA National Emission Standards for Hazardous Air Pollutants (NESHAP), a finding in a court case that the EPA must consider non-technology factors that can affect emissions when setting standards.

Director Garner asked, in reference to slide 6, Amended EPA NESHAP, what the mercury standard was prior to this, if any, to which Mr. Bateman responded that there was not a standard for existing facilities.

Chairperson Gioia said, regarding slide 6, Amended EPA NESHAP, that it would be useful to have two additional columns, one showing the current emissions standard for each category and another for current emissions levels for the facility, and asked what mercury emissions reduction level the new standard will impose. Mr. Bateman replied that it will be an approximately 95% reduction in mercury. Chairperson Gioia asked about the other emissions categories. Mr. Bateman approximated a 50% reduction in hydrocarbons, that particulate matter is probably already at these levels, and an approximately 60% reduction in hydrochloric acid.

Director Mar noted, regarding slide 9, Updated Air Toxics Emissions Inventory and Health Risk Assessment that the Air District's characterization of Lehigh's public health risk is very different than that expressed by some residents of various surrounding communities. Mr. Bateman responded that one must ask where they are getting their information, admitting that if one looks at emissions alone and in total, they are higher than many others and may result in the claims being made, however, the Air District is looking at the results of the health risk assessment.

Mr. Bateman noted, regarding slide 9, Updated Air Toxics Emissions Inventory and Health Risk Assessment, that the new method to estimate mercury emissions made a significant difference to the assessment.

Mr. Bateman noted, regarding slide 11, Air Monitoring Sites, that the sites were set up in response to feedback from the public.

Director Bates asked, regarding slide 18, Fine Particulate Matter, why the count is so high in San Rafael. Eric Stevenson, Director of Technical Services, responded that it is near a freeway and there is significant marine transport down the straights.

Director Mar stated, regarding slide 22, Mercury: Comparisons to Reference Exposure Levels (RELs), that it is difficult to establish a firm understanding of the various pollutants, noted having just read about the potentially inadequate monitoring of mercury by the EPA and asked what the mercury levels were at the three monitor sites. Mr. Bateman responded that only the Monta Vista Park site included mercury so a comparison is not possible. Director Mar asked if the referenced article is cause for concern. Mr. Bateman replied by explaining that the RELs have been tightened three-fold with an additional margin of safety added, a change not made by the EPA which may have caused the differing results. Director Mar noted the study calling out the Lehigh plant as the third highest for mercury emissions among the self-reporting facilities in the country and his sense that this is a serious concern. Mr. Bateman said that this is an emissions comparison and the method for estimating emissions can matter a great deal, with most reporting plants using source tests for mercury but Lehigh has changed to a material balance approach and this could skew comparisons. Mr. Bateman added that Lehigh has started injecting activated carbon to further abate emissions.

Chairperson Gioia asked if the facility is under the land use authority of the city or county and Director Spering asked the age of the facility. Mr. Bateman responded that it is in the unincorporated area of Santa Clara County and quarrying goes back as far as the late 1800's and the cement manufacturing plant was established in 1939.

Director Spring inquired about the prevailing wind pattern at the facility. Mr. Bateman responded that it flows west to east but as you get further into the valley there is a north to south component, so the testing was generally downwind. Director Garner reported that some council members from the City of Los Altos (City) claim that they are downwind of the facility and asked if we have air quality information from north of the quarry. Mr. Bateman responded that the closest monitor is in Redwood City. Director Garner asked the cost of a mobile air monitoring station. Jack Broadbent, Executive Officer/APCO, and Brian Bunker, District Counsel, stated that the price is approximately \$500,000 plus operational costs. Director Garner relayed that the City is considering purchasing one. Mr. Broadbent suggested the City contact the Air District to obtain help with calibration and operation of the device. Mr. Bateman noted the outreach efforts towards the City of Los Altos by the Air District. Director Garner suggested that the Air District alert the City of the meeting in Cupertino in the event they should care to attend.

Director Spring asked if a community may ask the Air District to install a monitoring system at the community's cost. Mr. Broadbent responded that the monitoring of Lehigh was done largely in response to concerns raised by the community and at the Air District's expense, then expressed some concern about the proper device operation by community members. Director Spring suggested that staff are rightly concerned about the proper use of a monitoring device by a community and suggested they pay the cost of the Air District's operation of the device when requested.

Committee Comments:

Mr. Broadbent noted the public interest in the facility and a possible site tour in the future, adding that the monitor has been in place for over a year, the mercury levels indicated are at or near background levels, and should they have proven higher this matter would have been brought forward to the Committee sooner. Mr. Broadbent stated that the Air District will be including the NESHAP requirements in the proposed rule that the Board of Directors will consider in the summer.

Director Spring stated that the staff report gives the impression that Lehigh is a concerned and well-intentioned member of the community, rather than the flagrant violator described by much of the public, and asked staff what their sense is. Mr. Broadbent responded that the Air District has a fairly good working relationship with the facility and although their compliance history contains violations that is not uncharacteristic.

Public Comments:

Mr. Chang addressed the Committee in opposition, stating that Lehigh is not a good member of the community. Mr. Chang noted Lehigh's filing suit against the EPA and their failure to hold a valid Title V EPA permit, adding that every business has permit requirements that cannot be postponed but Lehigh seems immune despite having a significant impact on public health and the region's EPA non-attainment status.

Bill Almon, of Quarry No, addressed the Committee neutrally, noting that the fact sheet and presentation are nice but fail to conform with the facts and provided the following examples of items not mentioned: Lehigh is the largest NO_x emitter without abatement devices; installation of synthetic gypsum feeders was a reaction from Lehigh to a notice of violation for operating equipment without a permit for over a year; the EPA has not approved the Air District Prevention of Significant Deterioration regulations; no mention that the health risk assessment is based on an air model that the Air District has concluded is flawed; the current mercury emissions of 55 pounds which is unacceptable when the trade-off is the intelligence of the community's children; the facility does not meet ground-level ozone requirements; and the year-end result in PM_{2.5} offset reductions.

Gary Latshaw, of the Loma Prieta Chapter of the Sierra Club Air Quality Committee, addressed the Committee neutrally, noting that the NESHA regulations have requirements for existing plants that differ from that for new and modified plants and asked that the more stringent requirements be applied. Mr. Latshaw pointed out that Lehigh is the closest plant of its kind to a major metropolitan area in the nation and that there may be room for improvement in the placement of the monitoring device in light of the complicated wind patterns.

Committee Chairperson Avalos thanked the members of the public for their comments and welcomed a future meeting and site visit in Cupertino to open the doors to more public involvement in the process.

Chairperson Gioia asked if the Committee meeting on May 21, 2012, will be held at the Lehigh facility to which Mr. Broadbent responded in the affirmative, noting that the logistics of the tour are still being worked out.

Committee Chairperson Avalos asked Air District staff to prepare a response to the public comments regarding allegedly omitted items in the fact sheet. Mr. Broadbent said that would be provided and noted that the Title V permit is current as it is in place pending completion of the application process.

Director Garner requested comments about the Air District's current air model for that area. Director Spering stated the importance of the accuracy of the information and reiterated Director Garner's request. Mr. Broadbent expressed his disagreement with the characterizations made by the public speakers and stated that it will be clarified.

Committee Action: None; informational only.

6. Committee Member Comments/Other Business: None.

7. Time and Place of Next Meeting: Monday, May 21, 2012, (**TENATIVELY**) City Hall, City of Cupertino, 10300 Torre Avenue, Cupertino, California, 95014 at 10:30 a.m.

8. **Adjournment:** The meeting adjourned at 12:36 p.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards