

Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109
(415) 749-5073

APPROVED MINUTES

Summary of Board of Directors
Stationary Source Committee Meeting
Monday, April 21, 2014

1. Call to Order – Roll Call

Stationary Source Committee (Committee) Chairperson John Gioia called the meeting to order at 9:38 a.m.

Present: Committee Chairperson John Gioia; Vice-Chairperson John Avalos; and Directors Tom Bates, Carole Groom, Scott Haggerty, Eric Mar and Jan Pepper.

Absent: Directors James Spering and Mary Piepho.

Also Present: Board of Directors (Board) Chairperson Nate Miley.

In Audience: Director Mark Ross.

2. Public Comment Period:

Tim Brand addressed the Committee regarding his disappointment with the progress being made by the Air District relative to Lehigh Southwest Cement Company (Lehigh) and to request the release of additional documents supporting the related health risk assessment and that a sensitivity analysis be conducted.

Rhoda Fry addressed the Committee to request that the Air District fulfill its commitments relative to compliance by Lehigh with Air District rules and permit limits.

Marilyn Bardet, Benicians for a Safe and Healthy Community, addressed the Committee to request Air District comment on a letter submitted previously regarding a draft environmental impact report and to express the need of local governments for cumulative impact information from the Air District to help inform their planning processes.

3. Approval of Minutes of February 24, 2014

Committee Action:

Director Bates made a motion, seconded by Director Haggerty, to approve the Minutes of February 24, 2014.

Public Comments:

Bill Almon, Quarry No, addressed the Committee to request the inclusion of additional details from the Compliance and Settlement Agreement between the Bay Area Air Quality Management District and Lehigh Southwest Cement Company, dated September 16, 2013 (Lehigh Agreement) in the Committee meeting minutes of February 24, 2014, and to reinforce an outstanding records request to staff documented in an email from Mr. Almon to “Public Records”, a copy of which was submitted to the Committee.

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO) said staff would meet with the public speakers to provide responses to their questions.

Committee Comments:

The Committee and staff discussed the Lehigh exceedences alleged by public speakers, whether any exceedences actually occurred, and how Air District data is compiled.

Director Avalos asked that staff meet with the public speakers to provide staff responses, as offered by Mr. Broadbent, and then report back to the Committee as appropriate based on the outcome. Committee Chair Gioia asked that an update on the item be agendaized for a future meeting.

Director Pepper asked to be informed of the meeting times with the public speakers.

Committee Action (continued):

The motion carried by the following vote of the Committee:

AYES: Avalos, Bates, Gioia, Haggerty, Miley and Pepper.

NOES: None.

ABSTAIN: Groom.

ABSENT: Mar, Piepho and Spering.

4. Update on the Development of Regulation 12, Rule 15: Petroleum Refining Emissions Tracking (Agenda Item #5 taken out of order)

Jean Roggenkamp, Deputy APCO, introduced Brian Bateman, Health and Science Officer, who gave the staff presentation *Update on Petroleum Refining Emissions Tracking Rule*, which included rule development process milestones; summaries of the initial draft Rule and public comments; potential revisions being considered; and next steps.

Committee Comments:

The Committee and staff discussed each of the items on slide 5, *Potential Revisions Being Considered*; regulatory response time for the Air District if increased emissions are detected;

what is required for and the likely timing of establishing the requisite emissions baseline; whether cargo carrier operations and accidental spills will be included under this rule and how; why emissions reductions requirements are not included within this proposed rule; the difference between a “public workshop” and “stakeholder work group”; locations of Air District offices and offsite public workshops; recent and upcoming public workshops; fence-line air monitoring system capabilities and intended pollutant focus; likely Air District response time to exceedences reported from fence-line air monitoring systems; the anticipated impact of refining dirtier crudes, the Air District response time in regards to operational changes as opposed to isolated non-conforming events, and how quickly a control measure would be developed and applied as a result; the possibility of including a provision for expedited Air District responses to certain situations; whether studies of crude oil slates exist that would provide the necessary information to allow staff to set standards that would preempt the use of undesirable stocks; the difference in emissions impacts at the local public health and global climate levels; the seeming disconnect between the proposed rule in its current form and the stated goal of the rule at its inception; and the existence of a multitude of other rules that limit or decrease emissions.

Public Comments:

Bill Quinn, California Council for Environmental and Economic Balance, addressed the Committee in support of the rule concept, to recall the many other rules that regulate emissions, to report the facility upgrades to refineries that have increased their baseline capabilities beyond their operational histories, and to suggest that the varied operations make baseline calculations unclear.

Diane Bailey, Natural Resources Defense Council, addressed the Committee in support of the rulemaking, in opposition to the removal of an emissions cap, and to urge for the consideration of opportunities to actively prevent emissions increases and for the Air District to take a leadership role in the Keystone XL issue.

Guy Bjerke, Western States Petroleum Association, addressed the Committee in support of the rulemaking with the exclusion of the control measure and to express concern about the concept of “up-front” tracking by the Air District.

NOTED PRESENT: Director Mar was noted present at 10:55 a.m.

Denny Larson, Global Community Monitor, addressed the Committee regarding his disappointment in the bifurcation of the rule such that control measures will be excluded and suggested that circumstances in the future will determine the Air District’s level of success.

Claire Broome addressed the Committee in support of the rulemaking, expressed her concern about the removal of the cap and the potential for increased emissions being permitted through the establishment of baselines, and to urge for an expedited transition to renewable sources and an expanded scope when conducting cost-effectiveness analysis to include costs borne by the public indirectly.

Ellen Spitalnik, Sierra Club San Francisco Bay Area, addressed the Committee in support of those comments made before her regarding the inclusion of a cap and the need for decreased emissions; to urge for enhanced opportunities for public notice and comment; to request that the

Air District website include postings of the audio of all Board committee meetings and that all permit applications be posted within one week after receipt with all relevant information attached.

David McCoard, Sierra Club Bay Area, addressed the Committee to warn against inaction following the enhancement of the Air District's tracking capabilities; to request that the composition of crude slates in use be included in the public records relative to a permit; and to urge the Air District to engage the issue of cumulative regional impacts.

Greg Karras, Communities for a Better Environment (CBE), addressed the Committee to request the protection of public health and to hedge the presence of sustained excess emissions at the Chevron refinery since 2009.

Andrés Soto, CBE, addressed the Committee to suggest that projections indicate net refinery emissions will increase despite assurances otherwise; that industry support for the rule is a cause for concern; that the accident language should be removed; that current monitoring is inadequate; that a baseline is needed; and to request public workshops be held in Benicia.

Dr. Henry Clark, West County Toxics Coalition, addressed the Committee in support of enhanced monitoring; to recall the integral component that public involvement was in the development of the flare management rule; to urge for the inclusion of a provision to reduce emissions instead of tracking alone and for an understanding of the relevance of cumulative impacts; and to share an update regarding ongoing public meetings with Chevron.

Azibuike Akaba, Regional Asthma Management and Prevention, addressed the Committee in support of the proposed rule and in opposition to the removal of an emissions cap.

Miya Yoshitani, Asian Pacific Environmental Network, addressed the Committee in support of the monitoring proposals and the establishment of baseline emissions levels and to argue that increases in emissions should be disallowed in the rulemaking given concerns about the timing of possible control measures.

Susan Gustofson addressed the Committee regarding commendable staff and Board efforts, to advocate for the in-state production of resources used within state, and in support of a bifurcated rulemaking process.

Jess Dervin-Ackerman, Sierra Club San Francisco Bay Chapter, addressed the Committee to thank staff for their consideration of public comments; to inquire how this proposed rule coincides with the Board policy for long-term greenhouse gas (GHG) reductions and the 10-Point Climate Action Work Plan; and to ask how cargo carrier operations are considered during the permit review process.

Committee Comments (continued):

The Committee and staff discussed the current webcasting capabilities of the Air District and the website posting practices relative to meeting audio; how quickly the Air District can or will intervene to limit excess emissions; the Committee's request that industry withdraw its

legislative opposition to Senate Bill 691 Hancock; how unused refinery capacity will be factored into baseline calculations in light of the stated construct of this proposed rule; how the staff proposal would be applied to actual increases in pollutants; the allegations of Mr. Karras; the importance of tracking but the necessity of controls if the Air District hopes to improve the health of Bay Area residents; the need for the establishment of a baseline through a deeper and wider air monitoring network; the need for more public workshops and that they be convened in Contra Costa County; the importance of meeting health standards and for doing so expeditiously; whether staff agrees with or opposes the establishment of a baseline; if the current staff proposal is likely to succeed at avoiding the setting of an arbitrary baseline and the reasoning behind staff's currently proposed approach; the operational and legal implications of imposing a baseline based on current emissions as part of this proposed rule; the desire for a strong rule that speaks to community concerns; whether and in what way emissions for currently permitted operations exceed the anticipated baselines; whether some baselines could be set sooner than later and others established later; increased operational transparency through the enhanced availability of information on the Air District website relative to individual operations; whether and how cumulative impact information is available; the impact of cargo carrier operations; concern about the gulf between the involved interests in response to the current staff proposal; the possible need for stronger language and of a stop gap baseline while calculations are performed for the setting of a final baseline; and whether the Air District has the legal authority to regulate GHG and, if so, how it is doing so.

Public Comments (continued):

Ms. Bardet addressed the Committee in opposition to the bifurcation of an emissions cap and the issuance of permits for crude by rail operations.

Mr. Broadbent said Air District permitting requires the use of best available control technology when feasible, this proposed rule is meant to supplement existing rules and regulations, and this proposed rule is likely to lead to decreased emissions from the implementation of tracking alone.

Charles Davidson addressed the Committee regarding the chemistry involved in the petroleum refining process.

Committee Comments (continued):

The Committee and staff discussed the action items coming out of and concerns raised during meeting.

Committee Action: None; receive and file.

5. Discussion of the Permit Status of Energy Projects in the Bay Area (Agenda Item #4)

The Committee and staff discussed the postponement of the item in light of the hour and the importance of the subject matter.

Committee Action:

The presentation and subsequent discussion were postponed until May 1, 2014 for lack of time.

Public Comments:

Dr. Clark addressed the Committee regarding his disappointment with the news of the Kinder Morgan permit issuance in light of the community's understanding of the process pursuant to the Air District Public Participation Plan; to suggest that the issuance of their permit is premature in light of the federal investigations of the safety of crude by rail operations throughout the country; and to urge for the rescinding of the permit to operate.

Committee Chair Gioia requested clarification from staff as to what permitting actions are appropriately considered as a discretionary, versus ministerial.

Nancy Rieser, Crockett Rodeo United to Defend the Environment, addressed the Committee regarding the long-standing noncompliance of Phillips 66 air monitoring equipment and to advocate for a regulatory regime that serves to outmaneuver the refineries and their manipulation of the process.

Ms. Dervin-Ackerman addressed the Committee to express the lack of public accessibility to environmental review processes conducted by other agencies without Air District involvement and to request that the Air District consider taking a co-lead role on all California Environmental Quality Act (CEQA) projects within its jurisdiction.

Ms. Spitalnik addressed the Committee to request that the postponed staff presentation include information regarding the possible treatment of proprietary information of concern to industry, along with possibilities for addressing the concerns on both sides, and to express the importance of including information on the composition of crude oil stocks on the Air District website.

Tom Griffith, Martinez Environmental Group, addressed the Committee to echo the comments of Dr. Clark.

Committee Comments:

The Committee and staff discussed the viability, advisability and history of the Air District taking a lead or co-lead role on all CEQA projects within its jurisdiction and where the Board's authority rests in terms of the issuance and the rescinding of individual permits to operate.

6. Committee Member Comments/Other Business: None.

7. Time and Place of Next Meeting:

Thursday, May 1, 2014, at Bay Area Air Quality Management District Headquarters, 939 Ellis Street, San Francisco, CA 94109 at 9:30 a.m.

8. **Adjournment:** The meeting adjourned at 12:29 p.m.

151 Sean Gallagher

Sean Gallagher
Clerk of the Boards