

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

Board of Directors Regular Meeting
Wednesday, May 1, 2013

APPROVED MINUTES

CALL TO ORDER

Chairperson Ash Kalra called the meeting to order at 9:54 a.m.

ROLL CALL

Present: Chairperson Ash Kalra; Vice-Chairperson Nate Miley; Secretary Carole Groom; and Directors Susan Adams, John Avalos, Teresa Barrett, Tom Bates, Scott Haggerty, David Hudson, Carol Klatt, Liz Kniss, Jan Pepper, Eric Mar, Mark Ross, Tim Sbranti, Jim Spering, Brad Wagenknecht and Ken Yeager.

Absent: Directors John Gioia, Edwin Lee, Mary Piepho and Shirlee Zane.

PLEDGE OF ALLEGIANCE

Chairperson Kalra led the Pledge of Allegiance.

OPENING COMMENTS: None.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

COMMENDATIONS/PROCLAMATIONS/AWARDS

Chairperson Kalra recognized outgoing Hearing Board Alternate Member Janet Weiss, M.D., in abstentia, for her outstanding service and dedication to protecting air quality in the Bay Area.

Chairperson Kalra recognized outgoing Hearing Board Chairperson Thomas M. Dailey, M.D., and outgoing Hearing Board Vice-Chairperson Christian Colline, P.E., for their outstanding service and dedication to protecting air quality in the Bay Area.

Dr. Dailey addressed the Board in gratitude.

Mr. Colline addressed the Board in gratitude.

NOTED PRESENT: Directors Haggerty and Miley were noted present at 9:58 a.m.

CONSENT CALENDAR (ITEMS 1 – 4)

- 1. Minutes of the Board of Directors Regular Meeting of April 17, 2013;**
- 2. Board Communications Received from April 17, 2013, through April 30, 2013;**
- 3. Adoption of Accountant I/II Job Classification; and**
- 4. Adoption of Amendments to the Air District’s Administrative Code Division I: Operating Policies and Procedures for the Board of Directors – Section 5.4 Failure to Vote.**

Board Comments: None.

Public Comments: None.

Board Action: Director Hudson made a motion to approve Consent Calendar Items 1, 2, 3 and 4; Director Wagenknecht seconded; and the motion carried unanimously.

COMMITTEE REPORTS AND RECOMMENDATIONS

- 5. Report of the Budget and Finance Committee Meeting of April 24, 2013**
Committee Chairperson Groom

The Budget and Finance Committee (BFC) met on Wednesday, April 24, 2013, and approved the minutes of March 27, 2013.

The BFC received the staff presentation of the Draft Amendments to Regulation 3, Fees, including an explanation of the background, current cost recovery policy, proposed changes to fee schedules, impact on small businesses, proposed online customer interface, incident response and open burning fees, public comments and the rule development schedule.

The BFC received and discussed the staff presentation of the Proposed Fiscal Year End (FYE) 2014 Budget. The BFC reviewed the status of the current FYE 2013, an overview of the revenue and expenditure forecast for FYE 2014, a summary of personnel costs and vacancy distribution, a review of strategic staffing principles and implementation, and trending in Air District reserve funds. The proposed budget is balanced without the use of reserves, includes filling of twelve vacant staff positions and increases the Other Post-Employment Benefits contribution to \$2.5 million. The BFC recommends Board adoption of the proposed FYE 2014 Budget.

The BFC received the staff presentation of the 3rd Quarter Financial Report, including an overview of general fund revenues and expenses, fund balances and vendor payments in excess of \$70,000 without Board review.

The next meeting of the BFC is Wednesday, June 26, 2013, at 9:30 a.m.

Public Comments: None.

NOTED PRESENT: Director Kniss was noted present at 10:03 a.m.

Board Comments: None.

Board Action:

Director Groom made a motion to approve the report and recommendation of the BFC; Director Wagenknecht seconded; and the motion carried unanimously.

6. Report of the Mobile Source Committee Meeting of April 25, 2013
Committee Chairperson Haggerty (as delivered by Director Wagenknecht)

The Mobile Source Committee (MSC) met on Thursday, April 25, 2013, and approved the minutes of March 28, 2013.

The MSC reviewed projects with proposed grant awards over \$100,000 and recommends Board approval of two projects for the replacement of off-road diesel engines; one construction aggregate loader in Contra Costa County and one agricultural tractor in Sonoma County.

The MSC then reviewed the FYE 2014 Transportation Fund for Clean Air (TFCA) County Program Manager Expenditure Funds and recommends the Board:

1. Approve the allocation of FYE 2014 TFCA County Program Manager Funds listed on Table 1 of the staff report; and
2. Authorize the Executive Officer/Air Pollution Control Officer (APCO) to enter into funding agreements with the County Program Managers for the total funds to be programmed in FYE 2014, as listed on Table 1 of the staff report.

The MSC then reviewed a status update on the Lower-Emission School Bus Program (LESBP) and recommends the Board:

1. Allocate \$13.21 million in Mobile Source Incentive Funding (MSIF) to the LESBP; and
2. Authorize the Executive Officer/APCO to enter into funding agreements with applicants meeting the requirements of the Program for retrofit, replacement and compressed natural gas tank replacement projects.

The next meeting of the MSC is on Thursday, May 23, 2013, at 9:30 a.m.

Board Comments: None.

Public Comments: None.

Board Action:

Director Wagenknecht made a motion to approve the report and recommendations of the MSC and Director Kniss seconded.

Director Hudson asked about the question posed in MSC regarding the differences in interest earned between participating counties, which question was answered by Jean Roggenkamp, Deputy APCO.

The motion carried unanimously.

PUBLIC HEARING

7. Public Hearing to Consider Adoption of proposed Regulation 12, Rule 13: Foundry and Forging Operations; Regulation 6, Rule 4: Metal Recycling and Shredding Operations; Amendments to Regulation 2, Rule 1: Permits, General Requirements and approval of a California Environmental Quality Act (CEQA) Negative Declaration

Jack Broadbent, Executive Officer/APCO, introduced the topic and Victor Douglas, Principal Air Quality Specialist, who gave the staff presentation Proposed Rules 12-13: Foundry & Forging Operations 6-4: Metal Recycling & Shredding Operations 2-1: Permits, General Requirements, including overview, background, an explanation of the two rules approach, overviews of foundry and forge and metal recycling and shredding operations and emissions, recent facility improvements, a summary of the proposed rules, emissions reductions, costs, the rule development process and staff recommendations.

NOTED PRESENT: Director Mar was noted present at 10:12 a.m.

Director Hudson asked, regarding staff report page 47, case study 5, about water as a dust control option at foundries, which question was answered by Mr. Douglas.

Mr. Douglas concluded the presentation.

Board Comments:

Director Miley asked about the decision regarding the use and definition of economic feasibility, which question was answered by Mr. Douglas.

NOTED PRESENT: Director Sbranti was noted present at 10:35 a.m.

Director Miley asked about the plan approval process, the inclusion of an appeal provision and for details on stakeholder vetting, which questions were answered by Mr. Broadbent.

Public Comments:

Ignacio De La Fuente, GMP Union, addressed the Board in opposition out of a concern for the health of industry in the Bay Area and continued jobs creation.

James Simonelli, California Metals Coalition, addressed the Board in opposition due to the ambiguous definition of “minimization”, the lack of opportunity to analyze the amendment to Regulation 2, Rule 1, and the fractional contribution of the affected industry to the total air quality of the Bay Area.

David Hiestand, U.S. Pipe, addressed the Board in opposition because the rule is inconsistent with workshop discussions.

John Ortiz, Pacific Steel Casting, addressed the Board in opposition out of a concern for continued jobs creation.

Will Funderburk, California Metals Coalition, addressed the Board in opposition due to the flawed definition of “minimization” and the questionable characterizations of the contribution of fugitive emissions to air quality.

Gilbert Rojo, U.S. Pipe/Local 39, addressed the Board in opposition out of a concern for continued jobs creation.

Diana Wood addressed the Board in support for the sake of improved air quality.

Robert Manley, U.S. Pipe, addressed the Board in opposition because of the imperfect solution it presents.

Charles McTyre, West Coast Protective League, addressed the Board in opposition out of concern for continued jobs creation.

Janice Shroeder, West Berkeley Alliance for Clear Air and Safe Jobs, addressed the Board to request the matter be tabled to address vague provisions.

Christopher Kroll, West Berkeley Alliance for Clear Air and Safe Jobs, addressed the Board to request that revisions be made before adoption or that an amendment be included to order further review of effectiveness after implementation.

Edward Kancetor, CASS, Inc., addressed the Board in opposition because of existing regulation and to urge for the inclusion of industry incentives.

Michael Olvera, AB & I, addressed the Board in opposition because the industry has made improvements without additional regulation and fugitive emissions are a fractional contribution to total air quality.

Kevin McCullough, AB & I, addressed the Board in opposition out of concern for continued jobs creation and the lack of real collaboration on this proposal despite the commendable efforts made.

David Polvi, Pacific Steel Casting, addressed the Board in opposition because of the company’s commitment to the environment and public health regardless of additional regulations.

Dave Robinson, AB & I, addressed the Board in opposition due to the lack of scientific foundation for the proposals.

Michael Keinath, Environ, addressed the Board in opposition because of the ambiguities within the proposed rules and the flawed definition of “minimization.”

Ulysses Juan, Pacific Steel Casting, addressed the Board in opposition out of a concern for continued jobs creation.

Francisco Marguez, Pacific Steel Casting, addressed the Board in opposition out of a concern for continued jobs creation.

Ashley Pellouchoud, Environmental Law and Justice Clinic on behalf of West Berkeley Alliance for Clear Air and Safe Jobs, addressed the Board to request the matter be tabled to address the lack of enforcement mechanisms, the inconsistencies that will result between facilities and the lack of quantification required under the rules.

Kurt Winter, AB & I, addressed the Board in opposition because of the environmental stewardship exhibited by the industry without the proposed rules, the flawed language within the rules, and out of a concern for continued jobs creation.

Jose Martinez, AB & I, addressed the Board in opposition out of a concern for continued jobs creation and no perceived health issues among workers in the industry.

Russell Wiley, AB & I, addressed the Board in opposition out of a concern for continued jobs creation and the lack of need in terms of public health.

Alfredo Gonzales, U.S. Pipe and Foundry Company, addressed the Board in opposition out of a concern for continued jobs creation.

Javier Nunez, AB & I, addressed the Board in opposition out of a concern for continued jobs creation.

Teresa Radonich, U.S. Pipe and Foundry Company, addressed the Board to request that all interested parties be considered equally.

Denny Larson, Global Community Monitor, addressed the Board in opposition because of the lack of enforcement mechanisms and questions about final review of emissions minimization plans (EMP).

Diana Almanza, Communities for a Better Environment, addressed the Board in opposition because of the inadequacy of public health protection provisions.

Nehanda Imara, Communities for a Better Environment, addressed the Board in opposition because of the inadequate protection of public health provided.

Scott Blake addressed the Board in opposition because of the inadequate protection of public health provided.

Andy Katz, Breathe California, addressed the Board regarding the inadequacy of public involvement opportunities in the rule-making process despite the conceptually acceptable rules proposed.

Ray Rodriguez, Gass, Inc., addressed the Board in opposition because of the need for meaningful regulations.

Kelli Wheeler, Gass, Inc., addressed the Board in opposition out of a concern for continued jobs creation in light of the commendable environmental record of this industry.

Dioni Araza addressed the Board in opposition out of a concern for continued jobs creation and the burdensome regulations already in place relative to this industry.

Mark Quilici, California Casting, Inc., addressed the Board in opposition out of a concern for continued jobs creation, the burdensome regulations already in place relative to this industry and to advocate for the inclusion of incentivizing provisions.

Mr. Broadbent addressed those concerns stated by the public; withdrew the staff recommendation regarding the amendment of Regulation 2, Rule 1, for return at a future date after further review; and committed to investigating the concept of incentivizing.

Chairperson Kalra asked about the staff and public review process for the future projects, which questions were answered by Jean Roggenkamp, Deputy APCO.

Director Miley asked if the EMP process would include the option to appeal to the Air District Hearing Board, which question was answered by Brian Bunker, District Counsel.

Director Ross said all those involved appreciate certainty and asked if allowing facilities an opportunity to submit voluntary proposals tailored to their operations would be workable in this situation, which question was answered by Mr. Broadbent and Ms. Roggenkamp.

Board Action: Director Hudson made a motion, seconded by Director Kniss, to approve the Negative Declaration pursuant to CEQA for the proposed rule and amendments; and the motion carried unanimously.

Board Comments:

Director Pepper asked about the number of affected facilities, suggested questions about implementation may be a bigger concern within the affected industry, stated her support for incentivizing and for individual plans customized to each facility, and suggested an improved public review process may be advisable.

Director Groom asked, regarding slide #33, Costs, whether a better estimate exists than the range provided, what the development of EMPs will entail for facilities and for clarification on the review process and those who will be involved should the proposal be adopted today, which questions were answered by Messrs. Douglas and Broadbent.

Director Adams likened EMPs to home energy savings plans, suggested the addition of “fluff” and “CARE communities” to the definitions, said the ambiguous definition of “minimization” is troublesome, expressed her support for grant funding similar to that provided for diesel trucks, said the enforcement component is unclear, and expressed her support for tracking data for later review of the effectiveness of the rule.

Director Bates asked how facilities will be held accountable, which question was answered by Mr. Bunger.

Director Bates commended the flexibility of the rule, expressed his sympathy for those concerns expressed during Public Comment and noted that the rule is merely the foundation for a long-running conversation with industry.

Board Action: Director Bates made a motion, seconded by Director Miley, to:

1. Adopt Proposed Regulation 12: Miscellaneous Standards of Performance, Rule 13: Foundry and Forging Operations and Regulation 6: Particulate Matter, Rule 4: Metal Recycling and Shredding Operations, with a minor amendment to the definition of “minimization”.
2. Direct staff to investigate and report back on possible methods to incentivize industry changes contemplated in the proposed regulations; and
3. Direct staff to report back to the appropriate Committee and the Board in one year on the effectiveness of the regulations.

Director Avalos expressed his concern about the health impacts of the rule on employees at each of the facilities and asked about the work to be done in this area, which question was answered by Mr. Bunger. Director Avalos requested that a quantified review of the health impact on facility employees be included in the District’s one-year review.

Directors Ross and Bates asked about plans for public involvement in the review of EMP, which questions were answered by Ms. Roggenkamp and Mr. Broadbent.

The motion carried with Director Sbranti opposed.

PUBLIC COMMENT ON NON-AGENDA MATTERS: None.

BOARD MEMBERS’ COMMENTS: None.

OTHER BUSINESS

8. Report of the Executive Officer/APCO:

Mr. Broadbent announced that today marks the beginning of the Air District’s summertime Spare the Air season.

9. Chairperson’s Report:

Chairperson Kalra reported that he and Mr. Broadbent testified at the recent California Air Resources Board meeting regarding the State’s cap-and-trade system and the Chevron refinery incident.

10. **Time and Place of Next Meeting:** Wednesday, May 15, 2013, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California 94109 at 9:45 a.m.
11. **Adjournment:** The Board meeting adjourned at 12:23 p.m.

/S/ Sean Gallagher

Sean Gallagher
Clerk of the Boards