Bay Area Air Quality Management District
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APPROVED MINUTES

Summary of Board of Directors
Stationary Source Committee Meeting
Monday, November 24, 2014

1. CALL TO ORDER – ROLL CALL

Stationary Source Committee (Committee) Chairperson John Gioia called the meeting to order at 9:34 a.m.

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

Absent: Directors Tom Bates and Mary Piepho.

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

2. PUBLIC COMMENT ON NON-AGENDA MATTERS: No requests received.

3. APPROVAL OF MINUTES OF OCTOBER 1, 2014

Committee Comments: None.

Public Comments: No requests received.

Committee Action:

Director Spering made a motion, seconded by Director Avalos, to approve the Minutes of October 1, 2014; and the motion carried by the following vote of the Committee:

AYES: Avalos, Gioia, Groom, Pepper and Spering.
NOES: None.
ABSTAIN: None.
ABSENT: Bates, Haggerty, Mar, Miley and Piepho.

4. UPDATE ON BAY AREA REFINERY EMISSIONS REDUCTION STRATEGY

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), introduced the topic and Jean Roggenkamp, Deputy APCO (DAPCO), who introduced Gregory Nudd, Rule Development Manager of the Planning, Rules and Research Division, who gave the staff

presentation *Review of Refinery Emission Reduction Approaches*, including background; an overview of the staff evaluation of the Board's direction to develop a strategy to reduce emissions from refineries by 20% or as much as feasible; a summary of evaluation criteria; the components of a possible Bay Area Regional Clean Air Incentives Market (RECLAIM), like that implemented by the South Coast Air Quality Management District (SCAQMD); stakeholder input; periodic control technology review; best available retrofit control technology (BARCT) and focused toxics; summary of evaluation; recommendations; and next steps.

NOTED PRESENT: Board Chairperson Miley and Director Haggerty were noted present at 9:42 a.m.

At slide 6, *Bay Area RECLAIM*, the Committee and staff discussed the effectiveness of the SCAQMD's RECLAIM program in bringing about emissions reductions and how cost-effective those reductions have been for the regulated community; the performance of the RECLAIM market during its 20-year life span; and whether emissions or production limits are imposed through the RECLAIM market.

Mr. Nudd continued the presentation.

At slide 9, *Periodic Control Technology Review*, the Committee and staff discussed how frequently a review of significant sources should occur to ensure the most current and appropriate control technology is being utilized; what rules are currently in place requiring Best Available Control Technology (BACT) reviews; and how BACT reviews are conducted.

Mr. Nudd continued the presentation.

At slide 10, *BARCT/Focused Toxics*, the Committee and staff discussed how and when new health risk assessments (HRAs) will be performed following the release of the new Office of Environment Health Hazard Assessment (OEHHA) standards and how HRA results are delivered to the Air District.

At slide 11, *Summary of Evaluation*, the Committee and staff discussed BARCT as staff's best attempt to reconcile the Community-Worker approach with the Health and Safety Code.

Mr. Nudd continued the presentation.

At slide 13, *Next Steps*, the Committee and staff discussed whether a review of the practice of grandfathering equipment is a component of the Focused Toxics Reduction staff recommendation; potential changes in the new U.S. Environmental Protection Agency (EPA) rules, the timing of their release and the likely impacts; and whether the Air District should proceed after May 2015 in accordance with the proposed EPA rules regardless of whether they have been adopted by that time.

Mr. Nudd concluded the presentation.

Committee Comments:

The Committee and staff discussed the likely timing of Board consideration of the 2015 Clean Air Plan (CAP); additional details regarding HRA requirements under proposed rule 12-15 and a potential shortage of qualified consultants that may result in compliance delays by industry; who is the final arbiter of RECLAIM credits; how the RECLAIM market functions; and staff's assessment of the program's likely effectiveness in the Bay Area.

Public Comments:

Irene Suhami, Valero, addressed the Committee regarding the implementation of voluntary reductions and through regulations based on data and to encourage the continuance of the same regulatory approach.

NOTED PRESENT: Director Mar was noted present at 10:19 a.m.

Bill Quinn, California Council for Environmental and Economic Balance, addressed the Committee regarding concerns relative to recent Air District rule proposals; to express a commitment to continued cooperation with the Air District; and to encourage the Air District to continue with rule-making efforts based on data in a way that compliments, not conflicts with, existing rules and programs.

Diane Bailey, Natural Resources Defense Council, addressed the Committee in support of Air District efforts at refinery emission reductions; to suggest Board resolution 2014-17 was passed with a sense of urgency and that the same should be a part of the rule development process; to express concern about a potential exchange program; to request greater details relative to staff proposals, particularly what would be grandfathered and why; to request greater attention to boiler regulation and that it be applied with greater urgency; and to suggest the U.S. Congress may defund EPA in the near future.

Kathy Wheeler, Shell, addressed the Committee regarding her company's production of affordable, clean transportation fuels in the tightest regulatory market in the world through a developed rule-making process based on sound science and to request that staff follow the same rule-making process in the future.

Ethan Bucker, ForestEthics, addressed the Committee to echo the comments of Ms. Bailey regarding the urgency of these matters; to suggest that many others from the public would be in attendance today if the meetings were more conveniently scheduled; and to suggest that the proposed rules are not arbitrary in light of dirtier incoming crude stocks, despite the characterizations made by others.

Ratha Lai, Sierra Club San Francisco Bay Chapter, addressed the Committee to note the extraordinary effort by the Board and staff and to express anticipation regarding the release of more information on the items in today's presentation.

Claire Broome, M.D., addressed the Committee regarding the commendable initial staff effort and to suggest the establishment of additional emissions reductions targets for major emitters and grandfathered facilities, that staff detail the likely air quality impacts of the different proposed strategies, and that a more independent assessment of what is feasible and cost-effective be conducted.

Nick Despota addressed the Committee regarding concerns with the ill-defined phrase "as feasible as possible;" the inappropriately long proposal for 20-year technology review cycles; a lack of understanding why greenhouse gas (GHG) net reductions are characterized as low for each proposal; and to ask why marine vessel upgrades are not a component of any of these approaches.

Charles Davidson, 350 Bay Area / Sunflower Alliance, addressed the Committee in support of Air District efforts to reduce refinery emissions and proposed rules 12-15 and 12-16; to relay information regarding the flash points of various substances; and in support of implementing BACT.

Tom Griffith, Martinez Environmental Group / Bay Area Refinery Corridor Coalition, addressed the Committee to suggest that the Air District not wait for the revised EPA standards and to commend those who admit a connection between cancer rates and emissions levels.

Andrés Soto, Communities for a Better Environment / Benicians for a Safe and Healthy Community / Sunflower Alliance, addressed the Committee to urge a move toward 20% reduction in emissions from refineries by 2020 and to suggest that both the public and industry must compromise and cooperate with the other.

Committee Comments (continued):

The Committee and staff discussed the frequency of technology reviews under the BARCT program; the importance of sharing with stakeholders the state law provisions that govern Board discretion relative to cost-effectiveness and feasibility; the difference between industry messages at the state and local levels relative to GHG reductions; the staff recommendation to individually review facilities to tailor reduction requirements for each operation; which facilities are grandfathered and why and what the term means relative to Air District regulations; the need for staff to conduct a more detailed equipment review relative to grandfathering; whether there is a clear inventory of grandfathered equipment, information on the periodic reviews of the same and when the Board might expect to receive the information; and that the focused toxics proposal is responsive to the comments made by Dr. Broome.

Committee Action: None; receive and file.

5. FLARING ACTIVITY AT THE TESORO REFINERY IN MARTINEZ, CALIFORNIA

Jeff McKay, DAPCO, introduced Wayne Kino, Director of Compliance and Enforcement, who delivered the staff presentation *Tesoro Refinery Flaring Activity*, including flare overview; a

diagram of a typical flare system; summaries of flare monitoring and management rules; and overviews of the Tesoro flare system and activity.

Public Comments:

Mr. Griffith addressed the Committee regarding the designed use of flare technology and the health impacts of the related emissions; to suggest the recent activity is not routine; to provide a data comparison with the flare activity at the Chevron Richmond refinery; and to opine that the Tesoro refinery is opting to pay the related fines to achieve an operational plan.

Mr. Lai addressed the Committee regarding heightened community concern relative to this issue; to suggest the activity should be factored into other Committee discussions; and to urge an increase in fines.

David Gassman, Greenaction for Health and Environmental Justice, addressed the Committee to echo prior statements in support of protecting the health of Bay Area communities.

Mr. Soto addressed the Committee regarding community concern about the flaring activity given the refinery's history; indicators that the current activity is outside of the norm; and the lack of community trust in Tesoro given their history of accidents and unwillingness to cooperate with government investigators.

Ms. Bailey addressed the Committee regarding concerns relative to the flaring activity and to ask what the existence of the current operations say about the current regulatory scheme and to request a discussion about the air quality impact of this flaring activity and, if the conclusion is that the current levels are legal, then a discussion about why that is.

Committee Comments:

The Committee and staff discussed the adoption of the flaring rule ten years ago and the impacts of the same; the need to review flaring trends on cycles greater than annual because of the maintenance schedules involved; the current status of inspections; the availability of flare reduction data; confirmation of a maintenance event at Tesoro and the related Air District investigation plan; the significant improvements made and need for more relative to flares; the staff response to public inquiries about the flaring activity; the inaccuracy of the flare-and-pay attitude suggested by a public speaker and how the Air District actually addresses flare activity; the availability of flare information, organized by facility and then further broken down into types of flaring; the banning of routine flaring; whether flare notification is required and being performed; whether air monitoring around the site indicates a major increase in pollutants; what can be done to stop or reduce flaring; whether any public notification system is in place for flaring; whether any flaring is occurring without proper notification and the related enforcement process; the estimated time for the end of the current flaring session; staff plans for possible improvements indicated by the current flaring session; the timetable for the purchase and installation of a larger capacity compressor by Tesoro; and more information relative to the underlying issues to the current flaring session.

Committee Action: None; receive and file.

6. OVERVIEW OF "MINISTERIAL" AND "DISCRETIONARY" PERMITTING DECISIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Committee Chairperson Gioia introduced the topic. Brian Bunger, District Council, introduced the topic further and then Alexander Crockett, Assistant Counsel of Counsel's Office, who gave the staff presentation *Discretionary Permits under the CEQA*, including a "big picture" summary; CEQA statutory provisions; Office of Planning and Research CEQA guidelines; court decisions; and examples from Air District regulations.

Committee Comments:

The Committee and staff discussed when the last review of the applicable rules had occurred; the similarities and differences between air district assessments and the varying local rules as being the root cause; how a future application for crude-by-rail permit would be handled at the Air District in light of public comments made by the Sacramento Metropolitan Air Quality Management District (SMAQMD); whether the level of public and Board interest should or will affect future application reviews; clarification of where the permit approval authority rests and the remedy for those who dispute the decision; the CEQA process as a tool for bringing items under the discretionary process to the public's attention and the absence of a comparable tool under the ministerial process; and a summary of the current notifications issued and possible enhancements to the same.

Public Comments:

Ms. Bailey addressed the Committee regarding the cargo being transported under the Kinder Morgan permit as not the usual crude stock; the lack of advance public knowledge of the project as an indicator of serious public notification and transparency issues; to suggest that data indicate the railcars may be leaking and to ask whether staff calculated the emissions from those leakages in their assessment; and to urge reconsideration of the Kinder Morgan permit.

Mr. Lai addressed the Committee regarding community concern about the Kinder Morgan permit, as well as the Air District's role in its issuance, and to note both the recent letter from the City of Richmond to the Air District and the public statement by SMAQMD.

Mr. Griffith addressed the Committee to suggest the controversy surrounding Bakken crude was common knowledge; to provide examples of seemingly applicable questions when considering the Kinder Morgan permit application; and to urge the rescinding of the Kinder Morgan permit.

Mr. Soto addressed the Committee regarding the commendable staff presentation; to note the public statement by SMAQMD as a sign of reasonable minds prevailing; to suggest additional questions of import relative to discretionary permit applications; the important opportunity to express concerns that is afforded the public when an environmental impact report is required; and to urge the Air District to side with the public over industry.

Committee Comments (continued):

The Committee and staff discussed whether the Board may direct the Executive Officer/APCO to change position on a permit determination; the current structure as a way to avoid the politicizing of permit decisions and the dangers inherent in changing that scheme as having implications for the continued functionality of the organization; the purpose of this presentation and the seeming misunderstanding of the same by some participants; the different standards at SMAQMD and the Air District and their impact on the decision process; and the larger concern this dialogue reveals is the influx of new crude stocks, how best to deal with the situation and the advisability of a future discussion about the same.

Committee Action: None; receive and file.

7. COMMITTEE MEMBER COMMENTS / OTHER BUSINESS

Committee Chairperson Gioia said the discussion about a wood burning moratorium will be agendized for a future Board meeting.

8. TIME AND PLACE OF NEXT MEETING: At the call of the Chairperson.

9. ADJOURNMENT: The meeting adjourned at 12:14 p.m.

/S/ Sean Gallagher

Sean Gallagher
Clerk of the Boards