

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, March 18, 2013

1. Call to Order – Roll Call

Committee Chairperson John Gioia called the meeting to order at 9:35 a.m.

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

Absent: Directors Nate Miley and Mary Piepho.

Also Present: Board of Directors Chairperson Ash Kalra.

2. Public Comment Period: None.

3. Approval of Minutes of September 17, 2012

Committee Comments: None.

Public Comments: None.

Committee Action: Director Haggerty made a motion to approve the Minutes of September 17, 2012; Director Avalos seconded; and the motion was carried unanimously.

4. Status Report of Implementation of Work Plan for Action Items Related to Accidental Releases from Industrial Facilities

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), introduced Jean Roggenkamp, Deputy APCO, who gave the staff presentation Update on Work Plan – Action Items Related to Accidental Releases from Industrial Facilities, including seven key actions relating to investigation, procedures, air quality monitoring, rule development, community outreach, legislation and resource needs.

Committee Comments:

Chairperson Gioia asked, regarding slide #3, Investigation, whether more than one violation may be possible under each category listed, if the proposed legislation regarding increased penalties

might affect the penalties imposed on Chevron's Richmond refinery, about the amount of the maximum currently applicable statutory penalties, for the names of the other agencies involved in the investigative process, about the maximum penalties available under SB 691 Hancock, and about the nature and extent of the Air District investigation, which questions were answered by Wayne Kino, Director of Compliance & Enforcement, Mr. Broadbent, and Brian Bunger, District Counsel.

Chairperson Gioia asked that the draft refinery rule be provided to the Committee when it is available.

Director Haggerty asked if the Air District will get full cost recovery related to its response to the incident at the Chevron Richmond refinery, which question was answered by Mr. Broadbent.

NOTED PRESENT: Director Mar was noted present at 9:56 a.m.

Chairperson Gioia asked, regarding slide #16, Status: Resources, about the intended uses of incident response fees received and whether ambient and incident monitoring plans are among them, which questions were answered by Mr. Broadbent and Ms. Roggenkamp.

Director Groom asked, regarding slide #8, Status: Air Monitoring, about the scale of the outreach efforts relative to establishing a panel of experts, which questions were answered by Ms. Roggenkamp and Mr. Broadbent.

Director Bates asked about the implications of statutes of limitations on the imposition of penalties by the Air District and about the next steps in the enforcement process, which questions were answered by Messrs. Broadbent, Bunger and Kino.

Director Bates inquired about the details of the investigation of the Chevron refinery incident and the extent of Air District authority, which questions were answered by Chairperson Gioia and Messrs. Broadbent and Bunger.

Chairperson Gioia asked what investigatory findings could change the penalty outcome for Chevron, which question was answered by Mr. Bunger.

Director Mar asked if community member experts will be included in the expert panel being established by the Air District, which question was answered by Ms. Roggenkamp.

Director Spring requested the creation of a spreadsheet for the next Committee meeting that individually lists the items in the Air District seven point action plan along with corresponding information relative to the involved agencies and Air District role for each, and asked whether the proposed legislation takes into account the topic of cost recovery, which questions were answered by Messrs. Broadbent and Bunger. Director Spring asked why the Air District is not focused on cost recovery, which question was answered by Mr. Broadbent. Director Spring requested an overview of the cost recovery procedure for the next Committee meeting. Chairperson Gioia suggested that the fee resolution will provide a vehicle for the Air District to recover costs separate and apart from the penalty, which suggestion was clarified by Messrs. Broadbent and Bunger.

Director Haggerty asked the approximate cost of the Air District response to the Chevron refinery incident and whether it would be advisable to seek a separate bill in the state legislature that is specifically tailored to recovery of these costs, which question was answered by Messrs. Kino and Bunger.

Public Comments:

Greg Karras, Communities for a Better Environment (CBE), addressed the Committee in support of the plan, to explain the impact of the incident on community services, to suggest the lack of deterrent value in the penalty levels being discussed and to provide an update on the state of the Chevron refinery facility.

Diane Bailey, Natural Resources Defense Council, addressed the Committee in support of the plan, stated the importance of community involvement in the expert panel and asked how the Air District might be able to reimburse participants for their expenses, offered a partnership in regards to community outreach efforts, provided details on the complications of tar sands crude extraction and provided information relative to plans by Valero.

Denny Larson, Global Community Monitor, addressed the Committee in support of the plan and to echo the comments by Mr. Karras, suggested an examination of the Air District settlement process, advocated for mobile monitoring and enhanced readiness capabilities, and urged against the extraction of tar sand crude.

Michael Marcy, Western States Petroleum Association (WSPA), addressed the Committee neutrally and expressed the willingness of WSPA to work with the Air District on the processes described in the plan.

Andre Soto, CBE, addressed the Committee to ask whether the Air District investigation of the Chevron refinery incident will consider the management culture and if the Air District will be coordinating its message with Chevron or the community and urged the Air District to prevent any additional emissions from Chevron and to take a multi-lingual approach to outreach efforts.

Chairperson Gioia asked for clarification about the inclusion of management culture in various investigatory efforts currently underway, which question was answered by Mr. Broadbent, who clarified that the Air District will undergo a comprehensive public outreach effort that will include a discussion of the multi-lingual aspect. Ms. Roggenkamp provided public workshop information.

Mr. Broadbent replied that staff will investigate the available options relative to funding of the monitoring panel.

Chairperson Gioia asked if the mobile monitoring issue will be resolved with the adoption of the resolution on fees, which question was answered by Mr. Broadbent.

Director Avalos asked staff to report back on Air District jurisdiction relative to the relationship between flares and pipe corrosion.

Committee Action: None; informational only.

5. Proposed Regulation 12, Rule 13: Foundry and Forging Operations and Proposed Regulation 6, Rule 4: Metal Recycling and Shredding Operations

Ms. Roggenkamp introduced Victor Douglas, Principal Air Quality Specialist of Planning, Rules & Research, who gave the staff presentation Proposed Rules 12-13: Foundry & Forging Operations and 6-4: Metal Recycling & Shredding Operations, 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 applications for the proposed rules, emissions reductions, costs, the new rule development process and next steps.

Committee Comments:

Board Chairperson Kalra asked about the administrative costs associated with tailoring the rule to each facility and whether those costs will be built into the fees, which questions were answered by Ms. Roggenkamp.

Board Chairperson Kalra asked about the cooperation of regulated industry and whether recent improvements to the proposals are the result of that cooperative effort, which questions were answered by Mr. Douglas.

Chairperson Gioia asked about Air District plans for dealing with facilities that are opting to take less aggressive mitigation measures, the corresponding U.S. Environmental Protection Agency standards, whether the California Division of Occupational Safety and Health is involved and how the South Coast Air Quality Management District manages similar facilities, which questions were answered by Messrs. Douglas and Broadbent.

Director Bates asked if Pacific Steel Casting Company will have to prepare an emissions management plan under these rules, how the Air District plans to deal with an industry report being drafted in response to the proposed rules, when and whether new technology can help with industry reluctance as well as if and how the Air District might help encourage the adoption of the same, which questions were answered by Messrs. Broadbent and Douglas.

Chairperson Gioia asked about the extent of Air District authority in those instances where there are differences of opinion about available mitigation measures, which question was answered by Messrs. Douglas, Broadbent and Bunger.

Public Comments:

James Simonelli, California Metals Coalition, addressed the Committee neutrally and in partial opposition, to make note of the existing rules, rule making process collaboration, outstanding questions of how mitigation technology disputes will be resolved, and the definition of minimization.

Mr. Larson again addressed the Committee, this time in opposition, stating his preference for an earlier version of the rule and noting the exclusion of certain facilities under the current version, to express public dissatisfaction with the public workshops held, and to request a comparison of the proposed rules.

Mr. Karras again addressed the Committee, to echo Mr. Larson's request for a comparison of the proposed rules, to urge consideration of the Golden Gate Law School letter dated August 3, and to suggest there is no comparison possible between the proposal and the flare management rule.

Ms. Bailey again addressed the Committee, to echo the requests by Messrs. Larson and Karras for a comparison of the proposed rules, to urge the application of best available control technology as a minimum for all facilities and to request the application of stricter standards generally.

Shana Foley, West Berkeley Alliance for Clean Air, addressed the Committee to echo the concerns and requests of Messrs. Larson and Karras and Ms. Bailey.

Chairperson Gioia asked for information relative to which facilities, including numbers and types, will not be covered in the current proposed rules, which question was answered by Mr. Douglas. Chairperson Gioia asked for an overview of how process emissions standards are addressed under the current and prior proposals, which information was provided by Messrs. Douglas and Broadbent.

Director Bates said it seems that progress is being made in one area only to drop another group of industry, asked if non-shredding recyclers are being monitored and suggested that staff move forward with what is proposed but continue evaluating for more that can be done, which questions were answered and direction taken by Messrs. Broadbent and Douglas.

Chairperson Gioia asked that the presentation to the Board of Directors include a plan on revisiting the regulation of the other facilities in question and include a proposal on how to address odor-only monitoring by the community. Director Spering additionally requested that information be included relative to staff's reasoning as to "why" on these matters.

Committee Action: None; informational only.

6. **Committee Member Comments/Other Business:** None.
7. **Time and Place of Next Meeting:** Monday, April 15, 2012, Bay Area Air Quality Management District Office, 939 Ellis Street, San Francisco, California, 94109 at 10:30 a.m.
8. **Adjournment:** The meeting adjourned at 11:52 a.m.

IS/ Sean Gallagher

Sean Gallagher
Clerk of the Boards