



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 5

Air District Legal Authorities 101

**Board of Directors Meeting
February 3, 2021**

**Brian C. Bungler
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Presentation Outcome



- Action Requested: None, Informational Only
- Outcome: Provide Overview of Air District Legal Authorities

Presentation Outline



- Air Quality Problems
- Regulatory Framework
- District Authority
- Roles of Board and Staff
- Roles of Board-Appointed Bodies
- Criteria Pollutant Control – Planning
- Criteria Pollutant Control – Regulations
 - District Regulations

Presentation Outline (cont.)



- Criteria Pollutant Control – Permits
 - Pre-Construction Permits
 - Operating Permits
 - Equipment Registrations
- Air Toxics Control
- Greenhouse Gases
- Assembly Bill (AB) 617
- Other Topics

Presentation Requested Action



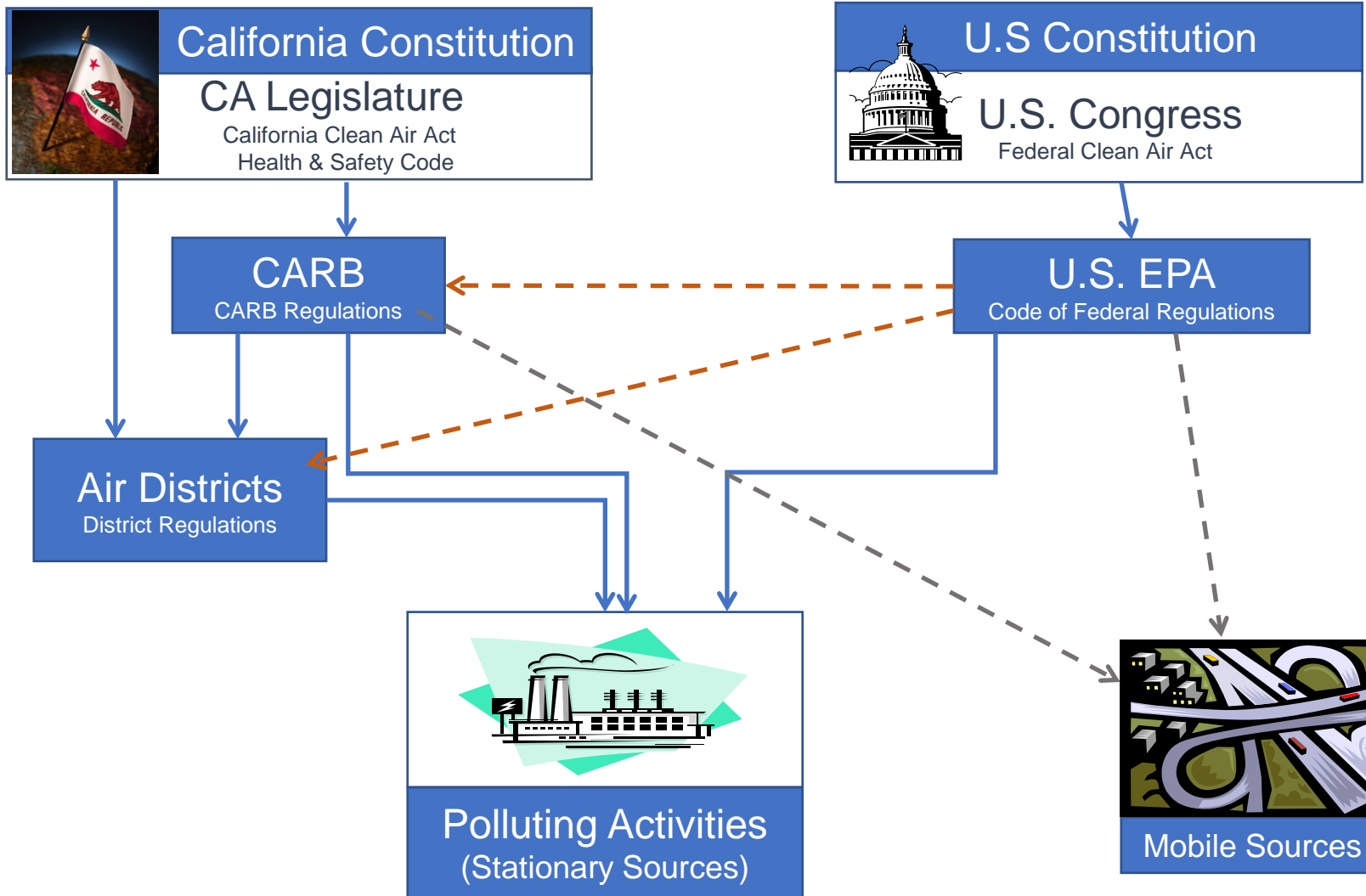
- None, Informational Only

Air Quality Problems



- Criteria Pollutants
 - Federal and California: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter, lead
 - California only: sulfates, hydrogen sulfide, vinyl chloride
- Air Toxics
 - Federal: hazardous air pollutants (HAPs)
 - California: toxic air contaminants (TACs)
- Greenhouse Gases (GHGs)

Regulatory Framework



District Authority



- Primary responsibility: control of air pollution from sources other than motor vehicles
- Powers to:
 - Adopt and enforce regulations
 - Require stationary source permits
 - Adopt fees
 - Adopt air toxic control measures
 - Regulate nuisances
 - Prohibit dark smoke
 - Adopt state nonattainment plans
 - Adopt regulations necessary to execute duties

Roles of Board and Staff



- Board Responsibilities:
 - Set policy
 - Adopt budget and fees and approve expenditures
 - Adopt plans
 - Adopt regulations
 - Appoint the Air Pollution Control Officer and Counsel

Roles of Board and Staff (cont.)



- Staff Responsibilities:
 - Appoint, direct, and supervise district staff
 - Issue permits
 - Enforce statutes, regulations and permit requirements
 - Develop plans for Board consideration
 - Develop regulations for Board consideration

Roles of Board-Appointed Bodies



- Hearing Board
 - Appeals of permitting decisions
 - By applicant
 - By third parties
 - Variance requests from regulated entities
 - Permit revocation requests from Air District staff
 - Abatement Order requests from Air District staff
- Advisory Council
 - Studies issues and provides advice at request of Board and staff

Criteria Pollutant Control - Planning



- Federal – federal attainment plans, e.g., 2005 Ozone Strategy
 - Must demonstrate attainment by a specified date
 - Plan Components
 - Inventory
 - Man-made (“anthropogenic”): stationary sources, area sources, motor vehicles
 - Natural (background/non-anthropogenic)
 - Modeling
 - Control strategy
 - “Commitments” for all source types
 - Penalties for failing to have plan
 - Joint adoption with Metropolitan Transportation Commission (MTC)

Criteria Pollutant Control – Planning (cont.)



- California – state attainment plans, e.g., 2017 Clean Air Plan
 - Must demonstrate 5% reduction in nonattainment pollutant emissions per year averaged over three years OR that Air District will implement “every feasible measure”
 - Plan components: stationary sources, transportation control measures, area/indirect
 - To be updated triennially

Criteria Pollutant Control – Planning (cont.)



- Differences from federal
 - Plan elements limited to those within Air District authority
 - Continuous improvement rather than target dates
 - Ranking of measures
 - No citizen suit provisions

Criteria Pollutant Control - Regulations



- Federal New Source Performance Standards
 - Detailed industry-specific regulations establishing emissions limits for specific items of equipment
 - Federal regulations directly applicable to sources
- Air District-Implemented Regulations Required by Federal and California Clean Air Acts
 - New Source Review Permit Program Requirements
 - Specific Regulatory Actions Committed to by Air District in Attainment Plans
- Additional Air District Regulatory Provisions

Air District Regulations



- Substantive requirements
 - Best Available Retrofit Control Technology (BARCT)
 - Feasible measure
 - Federal requirements if submitted into California state implementation plan
- Procedural requirements
 - Noticed hearing
 - Analysis of overlapping requirements
 - Socioeconomic impact analysis
 - Incremental cost analysis
 - Board must find that rule meets requirements of necessity, authority, clarity, consistency, nonduplication, and reference

Criteria Pollutant Control – Permits

Pre-Construction Permits



- Pre-construction Permits for Major Sources
 - New Source Review – for non-attainment pollutants
 - Lowest Achievable Emissions Rate (LAER)
 - Emission Offsets – “No Net Increase” Requirement
 - “Prevention of Significant Deterioration” – for attainment pollutants
 - Best Available Control Technology (BACT)
 - Analysis of potential to cause violation of air quality standards
- Pre-construction Permits for Non-major Sources
 - Minor New Source Review
 - Incorporates all other applicable regulatory requirements

Criteria Pollutant Control – Permits (cont.)

Operating Permits & Equipment Registrations



- Operating Permit Requirements
 - District “Permit to Operate”
 - Incorporates conditions from Authority to Construct
 - Applies to all sources, including existing sources
 - “Title V” Operating Permit
 - Consolidates major facility permit requirements in a single document for transparency and ease of review
 - Can also require additional conditions to improve enforceability, e.g., enhanced monitoring
- Equipment Registration Requirements for Certain Sources That Do Not Require Permits
 - Small boilers
 - Restaurant char-broilers

Air Toxics Control



- Regulations
 - Federal – source category toxics standards
 - Example – Refinery MACT
 - Example – Aluminum and other non-ferrous foundries area source standard (ZZZZZZ)
 - California –
 - Air Resources Board (ARB) air toxic control measures
 - California Toxics Hot Spots Program
 - AB 617 – Community monitoring and emission reduction plans

Air Toxics Control (cont.)



- Air District –
 - Air District source category toxics rules
 - Regulation 11, Rule 18 – reduction of air toxics risk from existing facilities
- Permits
 - Federal – Title V incorporates federal toxics requirements
 - Air District –
 - New Source Review of Toxic Air Contaminants
 - Incorporate source category toxics requirements

Greenhouse Gases (GHGs)



- Federal – Permit requirements for large emitters:
 - Requirements apply to facilities with emissions over the “major facility” threshold for some other regulated pollutant and a GHG increase of more than 75,000 tpy
 - “Prevention of Significant Deterioration” pre-construction permits
 - “Title V” Operating Permits

Greenhouse Gases (cont.)



- California – Various regulatory initiatives, including:
 - CARB’s AB 32 implementation efforts (cap-and-trade, etc.)
 - Utilities’ renewable energy portfolio standards (“RPS”)
 - Motor vehicle tailpipe standards (“Pavley Bill”)
 - AB 398 – Cap-and-Trade program authorized through 2030
 - 2030 Scoping Plan approved December 2017

Greenhouse Gases (cont.)



- Air District –
 - AB 398 (2017)
 - Removed Air District authority to regulate CO₂ at cap-and-trade facilities
 - Reaffirmed authority to otherwise regulate GHGs
 - Permit fees based on GHG emissions
 - Permit requirements for GHG emissions

Greenhouse Gases (cont.)



- AB 398 (2017)
 - Amended Health and Safety Code section 38594 to read in part:
38594.
(a) Except as provided in subdivision (b), nothing in this division shall limit or expand the existing authority of any district.
(b) A district shall not adopt or implement an **emission reduction rule for carbon dioxide** from stationary sources that are also subject to [the Cap-and-Trade program].
- Legislative intent in adopting this amendment was to preempt Air District proposed Regulation 12, Rule 16, the concept of which was to cap, not reduce, refinery emissions

Greenhouse Gases (cont.)



- AB 398 (2017) (cont.)
 - Assembly Floor Analysis of AB 398 when the bill returned for concurrence with Senate Amendments recognized this intent:

“... Though its effect is potentially broader, this provision is apparently intended to preempt the Bay Area Air Quality Management District's (BAAQMD) proposed Regulation 12, Rule 16, which would cap emission *increases* at refineries.

However, it's not clear Section 12, which applies to emission *reduction* rules, does preempt the BAAQMD Regulation 12, Rule 16, which proposes to limit future emission *increases*, and does not require emission *reductions*. ...”

AB 398 Assembly Floor Analysis, Concurrence in Senate Amendments, July 17, 2017, at 9 (emphasis in original)

AB 617 (2017)



- Companion bill to AB 398
- Several key elements:
 - Increased maximum strict liability penalty to \$5,000 and increments penalty maximums by California Consumer Price Index annually
 - Requires CARB to create uniform criteria and toxic emission reporting program statewide for facilities subject to Cap-and-Trade
 - Requires CARB to create and maintain a Best Available Retrofit Control Technology and Best Available Control Technology database
 - Requires accelerated schedule for adoption of Best Available Retrofit Control Technology at sources subject to Cap-and-Trade program
 - Requires development of community monitoring plans in disproportionately impacted communities
 - Requires development of community emission reduction plans in disproportionately impacted communities

AB 617 (2017) (cont.)



- Community monitoring plans (H&SC §42705.5)
 - CARB to develop statewide monitoring plan to deploy monitoring for criteria and toxic air contaminants
 - Based on Plan, CARB to select high priority locations through the state to deploy community monitoring plans
 - Air districts with selected locations required to deploy community monitoring system in those communities
 - Annually, CARB to select additional community monitoring locations

AB 617 (2017) (cont.)



- Community emission reduction plans (H&SC §44391.2)
 - CARB to develop statewide strategy to reduce emissions of toxic and criteria pollutants in communities affected by high cumulative exposures
 - Based on the strategy, CARB selects locations around the state for development of community emission reduction programs and annually designates additional areas as appropriate
 - Within one year of designation of a community, the affected air district is to adopt a community emission reduction program to achieve emission reductions for the area designated

AB 617 (2017) (cont.)



- Community emission reduction plans (H&SC §44391.2) (cont.)
 - In developing the program, the district is to consult with
 - CARB
 - Individuals
 - Community based organization
 - Affected sources
 - Local governmental bodies in the affected area
 - Program is to be submitted to CARB for approval within 60 days of development and resubmitted within 30 days if rejected
 - Programs must result in measurable emission reductions
 - CARB and air district responsible for elements within their respective authorities
 - Air district is to submit annual report on progress in achieving emission reductions under the program
- CARB to provide grants for technical assistance and to support participation

Other Topics



- California Environmental Quality Act (CEQA)
- Senate Bill (SB) 375 – The Sustainable Communities Strategy and Climate Protection Act
- District Consultative Policy Role
 - Regional Transportation Plan (RTP)
 - Joint Policy Committee (JPC) / Bay Area Regional Collaborative (BARC)
- Prohibition on Public Nuisances
- Regulating Visible Emissions



Questions / Discussion



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 6

Update on Core Programs

**Board of Directors Meeting
February 3, 2021**

**Damian Breen
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Presentation Outcome



- Inform the Board of Directors regarding major programmatic objectives for the Compliance and Enforcement, Engineering, and Meteorology and Monitoring programs for 2021.

Presentation Outline



- Background:
 - Why are they called the core programs?
 - What are their functions?
- 2021 Major Objectives:
 - Compliance and Enforcement
 - Engineering
 - Meteorology and Monitoring
- Questions

Presentation Requested Action



- None; Informational presentation to familiarize the Board of Directors with core program objectives for 2021.

Background – Why are They Called the Core Programs?



- Air District formed in 1955
 - 1957 - Regulation 1, banning open burning at dumps and wrecking yards
 - 1958 - Performing chemical analyses of air quality samples
 - 1962 - Ambient monitoring network (Five Stations)
- Role expanded in the 1970s to include permitting:
 - 1972 - Permitting system approved
- California and Federal regulatory mandates:
 - Monitor ambient air
 - Produce plans to get into attainment
 - Adopt regulations:
 - Permit facilities to comply with regulations
 - Determine if facilities are in compliance

Background – What are Their Functions?



Compliance and Enforcement

- Compliance Inspections
- Complaint Response

Engineering

- Permitting
- Engineering support

Meteorology and Monitoring

- Community monitoring
- Facility monitoring
- Forecasting



Compliance and Enforcement



2021 Focus Areas:

Wildfire Air Quality Response Program

- Assembly Bill (AB) 836, Wildfire Smoke Clean Air Centers Incentive Program for Vulnerable Populations
- 2-Year Pilot Program and Air District Partnership with American Red Cross
- Wildfire Prevention Chipping Pilot Program
- Home Air Filtration Grant Project



Compliance and Enforcement (cont.)



2021 Focus Areas (cont.):

Implementing New Air Quality Complaint Policy and Procedures

- Solicited public input to improve the complaint response and investigation process
- Expanded our ability to confirm complaints and addressed concerns over confidentiality, language interpretation, and customer service
- Enhanced information access - *New* online complaint reporting system, video series, brochures, and other guidance materials



Engineering



Regulation 11-18 Implementation

- Final Health Risk Assessment (HRA) Preparation – Two facilities
- Draft HRA Preparation – Two facilities
- 90 Day Facility Review – One facility
- Preliminary HRA Preparation – 14 facilities
- Validating Inventory and HRA Input Data



AB 617 – Criteria and Toxics Reporting Rule

Biofuel Permit Applications



Meteorology and Monitoring South Bay Odor Study



- Measure contribution of odors that can be attributed to three South Bay waste facilities through sampling events – Fall 2020 to Summer 2021
 - International Disposal Corp of CA (Newby Island)
 - San Jose Santa Clara Regional Wastewater Facility
 - Zero Waste Energy Development (ZWED)
- Inform actions to reduce odors (best practices, enforcement, rules) and establish methods to measure progress
- Discuss results and next steps with community



Feedback Requested



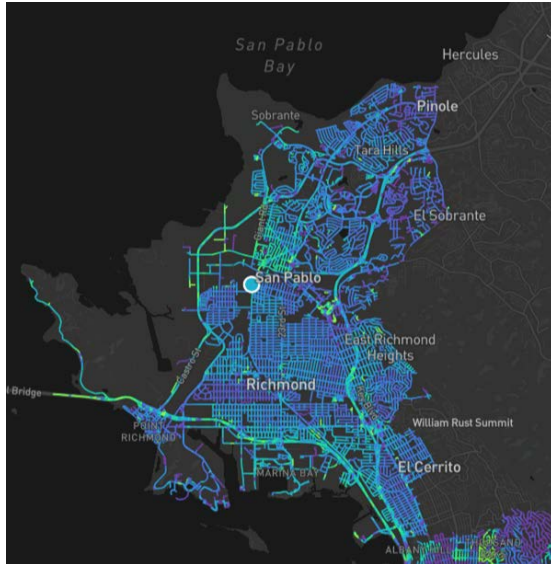
- Questions about Core Program or 2021 Major Objectives?

Hyperlocal Air Quality (Aclima) Project



- Measure air quality at a highly localized scale for all communities in the Bay Area (block-by-block average of measurements taken over a year)
- Complements other air quality measurement strategies
- Identify “hotspots” and areas for further study
- Strengthen partnerships with communities to better understand air quality concerns
- Take data-driven actions to improve air quality

Project Timeline and Data Review



County	Date for Completing Year of Driving
Alameda	November 30, 2020
Contra Costa	October 31, 2020
Marin	March 20, 2021
Napa	March 20, 2021
San Francisco	September 30, 2020
San Mateo	October 31, 2020
Santa Clara	February 28, 2021
Solano	March 20, 2021
Sonoma	March 20, 2021

Data for each county will be released through public web portal (<http://insights.aclima.io/>) after data validation and review

- Ensure that the public can have high confidence in the results
- Expected within a few months of driving completion

Potential Actions from Aclima Data

