



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

Advisory Council Introductions

**Advisory Council Meeting
March 1, 2024**

**Greg Nudd
Deputy Executive Officer**

gnudd@baaqmd.gov

Advisory Council Introductions

- **Please share information about yourself; including:**
 - Your work or knowledge in the field of air quality
 - Air quality topics or issues you are most interested in or would like to provide input on
 - What you would like to learn more from the Air District

Air District Introductions

- Please give us a moment to introduce the team that will be working closely with you while you serve on the Air District's Advisory Council

Questions?



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 4

Introduction to the Air District

**Advisory Council Meeting
March 1, 2024**

**Greg Nudd
Deputy Executive Officer**

gnudd@baaqmd.gov

Mission Statement

The Air District aims to create a healthy breathing environment for every Bay Area resident while protecting and improving public health, air quality and the global climate.*

**being updated*

Air District Background

- Responsible for air quality in the San Francisco Bay Area
 - Over 100 cities
 - Nearly eight (8) million residents
 - Five (5) million vehicles
- Anticipated growth by 2040
 - Nine (9) million people
 - 20% increase in driving



Map of Air District air monitoring and meteorological sites.
Source: Air District's 2022 Annual Report

Air District Overview

- **Board of Directors**

- Oversees policies and adopts regulations for the control of air pollution within the district
- Appoints the Air District's Executive Officer/APCO, who implements these policies and gives direction to staff, as well as the District Counsel, who manages the legal affairs of the agency

- **Advisory Council**

- Advise and consult with the Board and the APCO on matters referred to it by the Board of Directors or the APCO
- Consists of seven members who are skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution
- Advisory Council members shall be selected to include a diversity of perspectives, expertise, and backgrounds

Air District Overview (cont.)

- **Community Advisory Council**

- Provides guidance to the Board of Directors on programs and policies that impact all communities, including overburdened communities, within the Air District's jurisdiction
- Makes recommendations to the Board of Directors on equity and environmental justice matters to improve air quality in all communities, prioritizing the most impacted communities;
- Engages impacted communities to represent and address stakeholders' interests
- Advises Air District leadership on community-related matters to advance an equity-forward policy agenda
- Carries out any additional duties as the Board of Directors may prescribe

Air District Overview (cont.)

- **Hearing Board:**

- Consists of five members
- The Hearing Board shall have the power and authority to:
 - Issue variances and orders for abatement
 - Hear appeals from decisions by the APCO
 - Issue, deny, or suspend a permit
 - Revoke a permit
 - Take all other actions authorized under other provisions of the Health and Safety Code and related law

Advisory Council Defined by the California Health and Safety Code

- California Health and Safety Code, Sections 40260-40268:
- Council shall consist of:
 - Air District Board of Directors Chair, who shall serve as an ex officio member
 - Seven members who shall be skilled and experienced in the fields of air pollution, climate change, or the health impacts of air pollution
 - Members shall be selected to include a diversity of perspectives, expertise, and backgrounds
 - Council members shall hold office for a term of two years and until the appointment and qualification of their successor
 - Shall meet not less than four times a year

Role of the Advisory Council

- Air District seeks input and expertise on a variety of air quality topics
- Advisory Council has previously explored:
 - Energy sector/greenhouse gas emissions
 - Ultrafine Particulates
 - Black Carbon
- Most recently the Advisory Council researched and developed Particulate Matter Reduction Strategy Report (December 2020) and provided input on PM_{2.5} Local Risk Methodology

Air District Leadership

- Executive Officer:
 - Dr. Philip M. Fine
- Deputy Executive Officers
 - Meredith Bauer, Engineering & Compliance
 - Greg Nudd, Science & Policy
 - Hyacinth Hinojosa, Finance & Administration
 - Marcia Raymond, *Acting*, Equity & Community Programs
 - Viet Tran, Communications & Public Affairs

Accessing Advisory Council Materials

- Advisory Council materials emailed prior to each meeting with instructions
- Recommend installing Adobe Reader and downloading Agenda PDFs
- Presentations and Agendas available at the Air District's website

Accessing Advisory Council Materials (cont.)

The screenshot displays the Air District website's navigation menu and a featured 'Meetings & Events' section. The navigation menu includes icons and labels for: Complaints, Permitting, Asbestos Job Requests, Grant Applications, Air Monitoring Data, Public Data Center, and News / Events / Calendar. The 'Meetings & Events' section is circled in red and contains a 'STREAMING HELP' button, tabs for 'Upcoming' and 'Archived', and a list of events. The first event is 'Reg 3: Fees - 2024 Amendment - Hybrid Workshop' on February 15, 2024, with options for 'In Person' and 'STREAMING LIVE ON 2/15 AT 9:30 AM'. Below the event list are links for 'Meeting Details' and 'Submit a comment'. To the right, the 'Latest News' section features a headline: 'Air District Soliciting Applications for Two Community Advisory Council Seats' dated February 14, 2024, with a 'Learn More' button.

Air District website

Questions?



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 5

Air District's Policy and Regulatory Toolkit

**Advisory Council Meeting
March 1, 2024**

**Greg Nudd
Deputy Executive Officer**

gnudd@baaqmd.gov

Air District Policy Tools

- Regulatory Tools:
 - Focus on stationary sources that impact outdoor air quality
 - Air Quality Permitting – new and modified sources
 - Air Quality Regulations – new and existing sources
 - Enforcement
- Planning
 - Regional Planning (e.g. State Implementation Plans under the Clean Air Act)
 - Local Planning (e.g. Community Emission Reduction Plans under AB 617)
- Non-Regulatory
 - Technical guidance to local governments on land use decisions
 - Incentives to replace polluting equipment

Regulatory Tools: Air Quality Permitting

- Applies to new and modified sources
 - Significant modifications trigger a permit requirements
 - Smaller sources may be exempt
- Sets a regional cap on $PM_{2.5}$ and precursors to $PM_{2.5}$ and ozone precursors
 - Precursors include NO_x , some organic compounds
- Any new source must be offset within the Bay Area region at a 1:1 ratio or greater
- Air permit emission limits are established by rules/regulations, implemented through the permitting process, and enforced with inspections, investigations, monitoring, and legal action.

Regulatory Tools: Air Quality Permitting - cont

- Requires Best Available Control Technology for pollutants
- Sets maximum health risk impacts for new/modified facility
 - Uses California Office of Environmental Health Hazard Assessment (OEHHA) methodology for estimating increases in acute and chronic risk for listed toxic air contaminants
 - ***No analogous method for undifferentiated PM***
- More than 800 permit determinations per year, more than 300 with health risk assessments

Regulatory Tools: Air Quality Permitting (cont.)

• Current:

- OEHHA health risk assessments are designed to protect most vulnerable
- Define overburdened community as census tract in CalEnviroScreen 70th percentile or greater or within 1,000 feet of any such tract
- Stricter limits on the impacts of toxic air contaminants
 - Maximum 6/1M cancer risk in overburdened communities
 - Maximum 10/1M cancer risk on other communities
- Enhanced public notice in overburdened communities including mailed notice to residences within 1,000 feet of facility

• Possible changes:

- More stringent requirements on pollution controls
- Improvements to health risk assessments to better address cumulative impacts
- Environmental Justice/Civil Rights evaluations

Regulatory Tools: Air Quality Regulations

- Can address existing sources and sources not covered by permitting
- Require feasible emission reductions at existing sources, usually requires retrofits
- Can set emission limits or health impact limits

Example: Regulation 11, Rule 18

- Identifies facilities that pose elevated health risks from toxic air contaminants and requires those facilities to reduce health risks
 - High risk facilities are usually located in overburdened communities
- Requirements
 - Reduce facility health risks from all stationary sources below Risk Action Level (most stringent action level in California) or
 - Install best available controls on each Significant Source of health risk

Regulatory Tools: Air Quality Regulations (cont.)

- Current: For major rule development efforts we disaggregate exposure to show how race impacts health impacts and therefore impacts who benefits from a proposed rule. This example is for Rule 6-5, which reduces PM_{2.5} emissions from refineries:



Regulatory Tools: Air Quality Regulations (cont.)

- Possible changes:
 - Determine which sources and source categories drive differential cumulative health impacts and focus regulatory improvements on those sources
 - Explicitly consider cumulative health impacts when evaluating the costs and benefits of new or amended regulations

Regulatory Tools: Enforcement

- Scope:
 - Thousands of regulated facilities
 - > 1,000 notices of violation issued per year
 - Millions of dollars in penalties collected, mostly from refinery operations
- Current:
 - Developed new complaint process in partnership with community representatives
 - Targeted inspection policy focuses resources on overburdened communities
- Possible Changes:
 - Prioritize inspections on facilities driving the greatest health impacts
 - Consider cumulative impacts when assessing penalties

Planning: Regional Air Quality Planning

- Typically designed to reduce exposure to air pollutants at the monitor in the region measuring the highest concentrations
 - > 20 regulatory-grade monitors
 - Standards are pollutant-specific
- Bay Area is non-attainment for PM_{2.5} and ozone, but has no federal planning requirements at this time
- New, more stringent, PM_{2.5} standard may trigger formal planning requirements under the Clean Air Act, but we won't know for certain before early 2025.

Planning: Regional Air Quality Planning (cont.)

- Current:

- Federal and state standards are set at levels intended to protect the most vulnerable
- The monitors showing the highest exposure to PM_{2.5} in the Bay Area region are in overburdened communities (Oakland, San Jose)

- Possible Changes:

- Focus emission reduction measures in plan on sources and source categories causing differential exposure or risk, with consideration of cumulative impacts
- Include local sources, such as dust-generating sources, in plan even though they may not drive of PM_{2.5} concentrations at the regional level

Planning: Community Air Quality Planning

- AB 617
 - Passed by Legislature in 2017 along with Cap-and-Trade re-authorization
 - Requires updated rules limiting emissions from Cap-and-Trade sources
 - Requires community-specific air quality plans
 - Includes targeted funding for incentives to replace polluting equipment in overburdened communities
 - Community Emission Reduction Plans are developed in partnership between Community Steering Committees and Air District Staff

Planning: Community Air Quality Planning (cont.)

- AB 617 communities in the Bay Area:
 - West Oakland
 - Co-led by West Oakland Environmental Indicators Project
 - Plan complete; in 5th year of implementation
 - Richmond-North Richmond-San Pablo
 - Community Steering Committee has drafted plan in partnership with the Air District
 - Plan on track for consideration by Air District Board of Directors in May 2024
 - East Oakland
 - Co-led by Communities for a Better Environment
 - Community Steering Committee is developing plan
 - Bayview Hunters Point/Southeast San Francisco
 - Co-led by Bayview Hunters Point Community Advocates and Marie Harrison Community Foundation
 - Community Steering Committee is meeting to establish decision-making process

Planning: Community Air Quality Planning (cont.)

- AB 617 Program:
 - Current:
 - Developed in community partnership
 - Reflects lived experience of community members
 - Includes available data about community health
 - Includes technical information about local ambient air quality, sources of air pollution, and what drives air pollution exposure in the community (i.e. source apportionment)
 - Technical information tends to drive community priorities for new regulations and other measures to reduce pollution

Planning: Community Air Quality Planning (cont.)

- AB 617 Program:
 - Possible Improvements:
 - Use Health Impact Assessment methodologies to improve understanding of baseline health conditions
 - Consider cumulative impacts in technical assessment to provide more complete framework for prioritization of priority actions in the plans
 - Transition to community-led plans with Air District technical and logistical support

Non-Regulatory: Guidance on Local Land Use

- Local governments permit land uses
 - Those decisions are subject to the California Environmental Quality Act (CEQA)
- Air District CEQA Guidance:
 - Provides technical guidance for conducting Air Quality and Greenhouse Gas analyses under CEQA
 - Includes thresholds above which an impact is considered significant
- Local land use decisions are often made before the Air District receives a permit application
- Proximity of people to polluting sources, or new polluting sources to people, sometimes an outcome
- Examples:
 - Private school in Fremont located adjacent to concrete batch plant
 - Milpitas/Fremont/San Jose residential development near landfill/MRF
 - City approval allowed for crematory to relocate to East Oakland

Non-Regulatory: Guidance on Local Land Use (cont.)

- Current:

- Air District CEQA guidance includes guidance on best practices to do the following:
 - Inform, consult, or engage overburdened and/or AB 617 communities in CEQA analysis and decision making
 - Identify projects located in overburdened and/or AB 617 communities
 - Analyze project-level impacts on overburdened and/or AB 617 communities
 - Determine whether the project is centering nondiscrimination and environmental justice through its mitigation plan, cumulative impact analysis, and alternatives analysis
- Local land use best practices, e.g. Planning Healthy Places and SB1000 policy toolkit, includes policies to reduce air pollution impacts through a variety of approaches (i.e., zoning, permitting, conditions of approval)

Non-Regulatory: Guidance on Local Land Use (cont.)

- Possible Improvements:
 - Setting more stringent significance thresholds for PM_{2.5} and air toxics in overburdened communities
 - Guidance for local authorities to more comprehensively consider cumulative impacts in plan, policy, project, and permitting decisions

Non-Regulatory: Incentives

- Current:

- The Air District has a number of incentive programs to help fund projects that reduce pollution and exposure
- This includes programs like Clean Cars for All which is intentionally designed to provide access to clean transportation for low-income community members
- Incentive funding is targeted to communities with high burdens, typically identified through CalEnviroScreen

- Possible improvements:

- More nuanced targeting of investments through consideration of cumulative impacts

Questions?



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 6

Overview of the Ralph M. Brown Act

**Advisory Council Meeting
March 1, 2024**

**Alexander Crockett
General Counsel**

acrockett@baaqmd.gov

Brown Act Fundamentals

- The Ralph M. Brown Act is codified in California Government Code sections 54950, et seq.
- Purposes of the Brown Act include transparency in decision making and public participation in local government
- All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, unless an exception applies (Govt. Code § 54953)
- Brown Act purpose is broad; exceptions are narrow

Relationship to Parliamentary Procedure

- The Brown Act contains legal requirements for open meetings and public access, including some applicable procedural requirements
- Parliamentary procedure is intended to ensure efficient and fair meeting conduct
 - Robert's Rules of Order
 - Rosenberg's Rules of Order
- If there is a conflict, the legal (Brown Act) requirements govern
- Example: Voting - Under Robert's Rules elections of officers are typically by secret ballot; the Brown Act, however, prohibits any vote by secret ballot

Legislative Bodies Under the Brown Act

- The following are considered “legislative bodies” under the Brown Act, among others (Govt. Code § 54952(a) and (b)):
 - The “Governing body of a local agency” or any other local body created by state or federal statute
 - Standing committees of a legislative body
 - Bodies created and/or appointed by formal action of a legislative body
- Newly elected members of the governing body even before they assume office must comply with the Brown Act (Govt. Code § 54952.1)

Brown Act Meetings

- A “meeting” is any gathering of a majority of the members of a legislative body at the same time and location to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body (Govt. Code § 54952.2)
- All meetings must be properly noticed with the agenda posted at least 72 hours in advance (24 hours for special meetings)
- Communications outside of meeting prohibited: A majority of members may not discuss or deliberate on matters within the Council’s jurisdiction outside of a properly noticed meeting (Govt. Code § 54952.2)

Brown Act Meetings (cont'd)

- Six Narrow Exceptions:

1. **Individual Contacts:** Individual contacts between a councilmember and another individual, or among less than a quorum of the councilmembers. But, communications cannot pass on to a majority of the Council through a series of sub-quorum conversations (i.e., a “serial meeting”).
2. **Conferences:** Attendance at a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies like the Air District. But, a majority of the Council cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the Council’s subject matter jurisdiction.
3. **Community Meetings:** Attendance at an open and publicized meeting held by another organization to address a topic of local community concern. But, a majority of the Council cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the Council’s subject matter jurisdiction.
4. **Other legislative bodies:** Attendance at an open and publicized meeting of (i) another body of the Air District or (ii) a legislative body of another agency. But, a majority of the Council cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the Council’s subject matter jurisdiction.
5. **Standing Committees:** Attendance at an open and noticed meeting of Advisory Council standing committees, provided that the councilmembers who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting, and they must sit where members of the public sit).
6. **Social or Ceremonial Events:** Attendance at a purely social or ceremonial occasion. But, a majority of the Council cannot discuss business among themselves of a specific nature that is within the Council’s subject matter jurisdiction.

Voting

- Legislative bodies must publicly report (1) any action taken and (2) the vote or abstention on that action of each member present for the action (Govt. Code § 54953(c)(2))
- Action by secret ballot is prohibited (Govt. Code § 54953(c)(1))
- If votes are not taken by roll call, the clerk or chair should read aloud the name of each member with his/her vote or abstention in open session

Public Comment

- “The legislative body of a local agency may adopt reasonable regulations on public comment, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.” (Govt. Code § 54954.3(b)(1))
- “The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.” However, the Brown Act does not “confer any privilege or protection for expression beyond that otherwise provided by law.” (Govt. Code, § 54954.3(c))

Disruptive Public Commenters

- SB 1100 (Cortese) - 2022
- The presiding member may remove an individual for disrupting a meeting (Govt. Code § 54957.95)
 - Unless the disruption involves a true threat of force, the presiding member must warn the individual that their behavior is disrupting the meeting and that they will be removed if they do not stop.
 - The presiding member may remove the individual if they do not stop.
- “ ‘Disrupting’ means engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting...”

Questions?