

MEMORANDUM

BACWA AIR Committee Roundtable with Brian Bateman of BAAQMD, January 25, 2012

TO: BACWA AIR Committee
FROM: Divya Bhargava
DATE: February 10, 2012

This memorandum highlights the discussion points of the January 25th BACWA AIR Committee meeting with Brian Bateman, Director of Compliance and Enforcement of the Bay Area Air Quality Management District (BAAQMD). The purpose of the meeting with Brian was to get an overview of proposed or existing regulations that may impact your facilities. Below are some of the main items from the discussion:

- **EPA GHG Tailoring Rule (title V and PSD permit):**

- Major sources of GHG emissions: 100,000 ton/yr CO₂e
- Two types of permits required:
 1. *Title V permits*: BAAQMD doing adjustments on some facilities to keep them out of the program by adding enforceable limits to keep them below major source levels (called synthetic minors)
 2. *Prevention of significant deterioration* (pre-construction permits): 75,000 ton/yr CO₂e significant Increase (PSD)
- EPA issued statement regarding the deferral of biogenic CO₂ emissions for 3 years on July 1, 2011

- **Federal plan for GHG control:**

- Mandatory GHG reporting regulation; pressure on Congress to adopt Cap & Trade program, litigation forcing them to do it; starting to establish requirements under Clean Air Act
- EPA is developing rules under the Section 111 of Clean Air Act (NSPS)
- Rules are under development for the utility sector – proposed rules in November 2011 and will be published in the Federal Register soon; May 26, 2012 adoption (settlement agreement date)
- For refineries: November 10, 2012 adoption (settlement agreement date)
- Emission standards for new sources, emission guidelines for existing sources; Under emission guidelines they adopt model rules and then it's up to the States to either adopt the rule locally or come up with another way of enforcing it

- **AB-32 update:**

- **Mandatory reporting regulation (MRR):**

- Modifications to regulation approved during CARB Board meeting in December 2011; proposed changes kick in for reporting year 2011
- Regulation became effective as of January 1, 2012. All future reports, beginning with the 2012 submittal of 2011 data, must comply with the new requirements
- USEPA MRR threshold is 25,000 MT of CO₂e reporting trigger and does not include biomass combustion CO₂
- Smaller facilities (between 10,000 and 25,000 metric tons CO₂e) can use an abbreviated report, with no verification requirement, and the initial reporting deadline for these smaller facilities is June 1, 2013
- Reports are due for facilities and suppliers of fuels and carbon dioxide, except when subject to Abbreviated Reporting on April 10, 2012
- The new California GHG data reporting tool, Cal e-GGRT, will be deployed in early February. At that time, facility and entity "Designated Representatives" will receive an email from the reporting tool providing information needed to create a primary facility user account and assign other users. The tool must be used for submitting 2012 reports on 2011 data, and all subsequent data submissions.

➤ **Cap-and-Trade regulation**

- Regulation approved during CARB Board meeting in December 2011; Regulation became effective as of January 1, 2012
- Biomass emissions, including those from combustion of digester and landfill gas, are excluded
- Enforcement of CARB's Cap & Trade rule has been deferred from 2012 to 2013

➤ **Low Carbon Fuel Standard**

- The Board approved the Low Carbon Fuel Standard (LCFS) regulation on April 23, 2009, and it became law on January 12, 2010.
- 10% decrease in carbon intensity of transportation fuels by 2020 with gradual annual phase-in.
- Applies to transportation fuels sold, supplied, or offered for sale in California
- On December 29, 2011, the U.S. District Court for the Eastern District of California issued several rulings in the federal lawsuits challenging the LCFS
- One of the court's rulings preliminarily enjoins the Air Resources Board (ARB or Board) from enforcing the regulation during the pendency of the litigation. While ARB intends to appeal these rulings and to seek an order staying the preliminary injunction, as long as the injunction remains in effect, ARB will respect the Court's ruling and withhold enforcement of the LCFS requirements.
- Board has requested modifications to the regulation; ARB will continue its stakeholder and rulemaking processes. This includes the posting of these updated carbon intensities and other information regarding biofuel producers registered in the LCFS Biofuel Producer Registration Program.
- ARB staff has updated carbon intensities (CIs) and other information regarding biofuel producers registered in the Low Carbon Fuel Standard (LCFS) Biofuel Producer Registration Program. The updated information can be found at the Low Carbon Fuel Standard (LCFS) website at the address: <http://www.arb.ca.gov/fuels/lcfs/reportingtool/registeredfacilityinfo.htm>

- POTWs may be interested in this from a biofuel producer standpoint

➤ **Stationary Refrigeration Management regulation**

- Regulation to minimize leaks of environmentally harmful refrigerants; became effective on January 1, 2011
- Rule was adopted, but not enforced; CARB trying to delegate enforcement to local air districts; BAAQMD not enforcing it yet
- Regulation requires inspections (depending on size of units), leak repairs, record-keeping and registration; reporting deadlines
- Three categories within this; the category for a facility is based on one's largest unit
Large (capacity of 2000 pounds or more), medium (200-2000 pounds), and small (50-200 pounds)
- Registration and reporting for facilities with large refrigeration systems and reporting for distributors, wholesalers, and declaimers are due by March 1, 2012; and by March 1, 2014, for medium facilities
- Registration requirements for large and medium facilities - Refrigerant Registration and Reporting tool (R3) will be available online on January 27, 2012, for registering companies and facilities, filing annual reports, paying annual implementation fees, and entering service records

▪ **BAAQMD 2010 Clean Air Plan:** These rules are under development and would be coming out in the future

➤ *BAAQMD NSR/PSD rule amendments:*

- Nothing more stringent than tailoring rule
- Workshop to be held on February 22nd, 2012

➤ *BAAQMD Composting rule:*

- No progress yet by BAAQMD staff on this rule
- Tracking progress of the San Joaquin and South Coast AQMD composting rules
- BAAQMD to possibly begin drafting new rule in late 2012 or later

➤ *BAAQMD Diesel backup generator rule:*

- High concentration of these units in some industrial areas; requires diesel particulate filters on stationary engines;
- Proposal for this rule is on the 2012 regulatory calendar; rule might be finalized this year

▪ **Ozone NAAQS update:**

- EPA revised 8-hr ozone NAAQS from 0.08 ppm to 0.075 ppm in March 2008

- EPA announced reconsideration of standards on September 2009: State designation submittals were optional.
- California submitted in October 2011; EPA approved non-attainment designation in December 2011
- Re-consideration of standards has been delayed 4 times by EPA – most recently no new date set

▪ **PM_{2.5} NAAQS Planning Activities:**

- In 1997, EPA established annual and 24-hour NAAQS for PM_{2.5} for the first time: 15 ug/m³ annual; 65 ug/m³ 24-hr; Bay Area attained both standards
- In 2006, EPA revised the 24-hour NAAQS for PM_{2.5} from 65 to 35 ug/m³; Bay Area at times gets 24-hour value above 35 ug/m³
- Designations were effective December 14, 2009 – Bay Area under nonattainment for 24-hr NAAQS
- BAAQMD submitting clean data finding to Feds owing to attainment the past 3 yrs; I to be submitted by December 2012; NSR/PSD amendments to be submitted with this
- EPA is in the process of reconsidering PM_{2.5} standards, not sure when

▪ **BAAQMD CEQA Guidelines:**

- Guidelines and new thresholds of significance were approved in May 2011 (cumulative threshold of significance added)
- Building Industries Association Lawsuit: Lawsuit against BAAQMD for not following CEQA for development of CEQA guidelines; BAAQMD will have to redo public review process, which could impact the thresholds and requirements, including GHG elements

▪ **OEHHA Health Risk Assessment Guideline revisions:**

- Not a regulatory agency, but produces guidelines that are used in regulatory programs; Air Toxics Hot Spot Program
- BAAQMD uses guidelines in toxics resource review – methods to estimate health risk from toxic air emissions; guidelines have been under revision for number of years
- OEHHA to revise guidelines in order to have adequate margin of safety for children
- Age sensitivity Factors incorporated into regulation for Cancer risks
- Exposure guidelines have not yet been adopted, if adopted they will further increase residential risk calculations including the age sensitivity factors (increase by factor of 2 or 2.5); Not of concern now, but probably in the future

▪ **May 2011 BAAQMD “boiler rule” amendments (Reg. 9/Rule 7):**

- Amendments made to Reg 9/Rule 7; BAAQMD added compliance times in May 2011; For smaller boilers (units between 2 and 10 MBtu/hr) – pushed out to 2013

- NOx and CO standards: CO – 400 ppm
NOx: Between 5-10 MBtu/hr: 15 ppm
2-5 MBtu/hr: 30 ppm
- Certification requirements for new units

▪ **Boiler MACT update:**

- EPA adopted Major Source MACT in September 2004; In January 2007, Court of Appeals vacates and remands
- EPA adopted rule in March 2011 for major (10 tons of single HAP or 25 tons combined HAPs) and area source boilers; issued federal notice on same day saying that they'll reconsider rule
- New proposal issued for major and area sources in December 2011
- In January 2012, EPA Administrator indicated that EPA will not enforce rules at this time and will issue "No Action Letter"; Rules will become effective 3 years after adoption Area Source – applies to solid and liquid (coal, oil, biomass), doesn't apply to gaseous only

▪ **Sewage Sludge NSPS/EG:**

- Definition: Sewage sludge is "Non-hazardous solid waste" – SSI covered by CAA Section 129 (not 112)
- CISWI (Commercial and Industrial Solid Waste Incineration) Rules to be reconsidered (Boilers too) : SSI not part of this
- Rule adopted in March 2011
- NSPS for new units (construction commenced after October 14th 2010); existing units subject to emission guidelines – model rule; not in effect yet for existing units
- BAAQMD will make a rule, if delegated from the state, with pressure to be stricter than EPA
- Compliance dates: 3 yrs after state adoption or 5 yrs after federal, whichever is sooner
- BAAQMD to provide info when they receive it and to discuss options

▪ **Reciprocating IC Engine rules:**

- Reciprocating IC Engines of 2 types - spark ignition and compression ignition (CI)
- For stationary CI engines, CARB ATCM became effective on December 4, 2004; federal NSPS were finalized in July 2006; CARB ATCM revised in 2011 to harmonize with the federal NSPS requirements (no Tier 4 for emergency-use engines)
- Reg9/rule 8: compliance requirements went into effect January 1, 2012; No problems with meeting the requirements of Reg 9/Rule 8 have been formally expressed to the BAAQMD to date

▪ **Portable Equipment Registration Program (PERP):**

- Recently, there were revisions made to the PERP regulation and Portable Engine ATCM

- These revisions became effective on February 19, 2011, and all holders of PER. Registrations are now subject to the new requirements.
- Beginning January 1, 2012, engine manufacturers are required to produce engines in the 75 to 174 bhp power category that are certified to the Interim Tier 4 level
- PERP will continue to register the Tier 3 engines in this power category for six months beyond this date – until June 30, 2012.

▪ **BAAQMD “Production System” update:**

- No updates this year
- Online permitting and fees system will hopefully be up and running in 2013

▪ **BAAQMD Cost Recovery Policy / Permit fee amendments:**

- BAAQMD is moving towards increased fees for cost recovery.
- An approximate increase of 6.7%/year for the next five years will be proposed to the Board

▪ **Municipal fleet rule development:**

- No updates from BAAQMD