

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT PROMISES LEADERSHIP ROLE ON FRACKING

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On September 18, 2012, California's South Coast Air Quality Management District (SCAQMD) sponsored a technology symposium on "Hydraulic Fracturing in the South Coast Basin." Speaking at the conclusion of the symposium, SCAQMD's Executive Officer Barry Wallerstein stated that the agency will assume a "leadership role" on hydraulic fracturing, or "fracking," as it regulates air quality in the South Coast Basin, and promised that the SCAQMD will re-visit the issue at the next Governing Board meeting on October 5.

Exactly what the SCAQMD may do with respect to fracking regulation remains uncertain. Responding to a question raised by Dr. William Burke, SCAQMD's Governing Board Chairman at the outset of the symposium – "can we harness natural gas in a way that is environmentally safe to Californians?" – several speakers discussed how the agency might address concerns raised by fracking. Dr. Elaine Chang, SCAQMD's Deputy Executive Officer, provided the most specific outline of potential agency action. Dr. Chang first identified several SCAQMD rules and regulations already in place that govern oil and gas activities, including Rule 222, Rule 1148.1, Rule 1173, Rule 1176, Rule 1178, Rule 1401, and Regulation XIII. Noting that the agency needs much more information on various fracking-related topics, including a description of the chemicals used in fracking, the frequency with which horizontal drilling occurs, and the use of fracking to stimulate production of crude oil (as opposed to natural gas), Dr. Chang laid out a two-phase approach that SCAQMD might employ as it considers the adoption of new regulations. Under the first phase, SCAQMD would consider (a) permitting and registration, (b) reporting, (c) public notification, and (d) emissions monitoring. The second phase would involve (a) mitigation of emissions, if warranted, and (b) development and application of best management practices.

Several of the symposium speakers added their perspectives on proposed SCAQMD regulation of fracking. Industry representatives Tupper Hull of the Western States Petroleum Association and Rock Zierman of the California

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Independent Petroleum Association described the extensive federal and state regulations already in place that control emissions in the oil and gas drilling process. These include the SCAQMD regulations cited by Dr. Chang, plus a host of Environmental Protection Agency air regulations, including the “green completion” rules adopted earlier this year. While the green completion rules do not take full effect until 2015, they reflect EPA’s efforts to regulate fracking-related emissions. On this point, panelist Damon Nagami of the Natural Resources Defense Council suggested that the SCAQMD could phase-in green completion rules sooner than required under EPA rules.

Another theme discussed among symposium participants was the degree to which the SCAQMD should be proactive in regulating fracking, notwithstanding ongoing efforts to adopt regulations at the state level. Certain speakers suggested that the agency should delay taking action, at least until it sees the pending state regulations and can determine whether further action specific to the South Coast Basin might be appropriate. That approach seems unlikely, given Dr. Wallerstein’s concluding promise that the agency intends to assume a leadership role. Certainly, the SCAQMD has jurisdiction to regulate air quality within its area of geographic authority and has not hesitated to regulate oil and gas drilling in the past. We expect they will continue that course with respect to fracking, and we will monitor and report on further agency action as warranted.

The symposium included a host of other speakers from government, industry, education, and environmental groups, as outlined in the symposium’s brochure and in our September 14 report. These speakers addressed a range of fracking-related topics, including its history and development, the risk of induced seismicity, and California’s efforts to enact legislation governing the practice, among many others. Summaries of their comments are contained in their PowerPoint presentations, which are expected to be posted early next week on the SCAQMD website.

We will separately report on comments made at the symposium by Dr. Mark Nechodom of the Department of Conservation and Tim Kustic of the Division of Oil, Gas & Geothermal Resources (DOGGR) regarding DOGGR’s ongoing regulatory process.

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The next meeting of the Governing Board of the SCAQMD will be conducted at 9:00 a.m. on October 5, 2012, at 21865 Copley Drive, Diamond Bar, California 91765.

For more information regarding California fracking issues, please contact:

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