

Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, CA 94105  
(415) 749-5073

Board of Directors Regular Meeting  
Wednesday, June 21, 2017

## **APPROVED MINUTES**

*Note: Audio recordings of the meeting are available on the website of the  
Bay Area Air Quality Management District at  
<http://www.baaqmd.gov/about-the-air-district/board-of-directors/resolutionsagendasminutes>*

### **CALL TO ORDER:**

**Opening Comments:** Chairperson, Liz Kniss, called the meeting to order at 9:56 a.m.

### **Roll Call:**

Present: Chairperson Liz Kniss; Vice Chairperson Dave Hudson; Secretary Katie Rice; and Directors Margaret Abe-Koga, Teresa Barrett, John Gioia, Scott Haggerty, Tyrone Jue, Rebecca Kaplan, Doug Kim, Nate Miley, Karen Mitchoff, Hillary Ronen, Mark Ross, Pete Sanchez, Jeff Sheehy, Rod Sinks, Brad Wagenknecht, and Shirlee Zane.

Absent: Directors David J. Canepa, Cindy Chavez, Pauline Russo Cutter, Carole Groom, and Jim Spering

### **COMMENDATIONS/PROCLAMATIONS/AWARDS**

1. The Board of Directors and staff recognized outgoing Sacramento Metropolitan Air Quality Management District (SMAQMD) Executive Director/Air Pollution Control Officer, Larry Greene, for his service, leadership, and dedication to protecting air quality in Northern California through a variety of roles throughout his career. Mr. Greene thanked the District for its collaboration and partnership with the SMAQMD.

### **CLOSED SESSION** (commenced at 10:05 a.m.)

2. **CONFERENCE WITH LEGAL COUNSEL (OUT OF ORDER, ITEM 14)**

#### **ANTICIPATED LITIGATION (Government Code Section 54956.9 (d)(2))**

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9.

### **OPEN SESSION** (commenced at 10:29 a.m.)

Brian Bunger, District Counsel, announced that there was no reportable action from Closed Session.

**CONSENT CALENDAR (ITEMS 2 – 7)**

3. Minutes of the Board of Directors Special Meeting Budget Hearing of May 17, 2017 and Special Meeting of May 31, 2017 **(ITEM 2)**
4. Board Communications Received from May 31, 2017 through June 20, 2017 **(ITEM 3)**
5. Air District Personnel on Out-of-State Business Travel **(ITEM 4)**
6. Notices of Violations Issued and Settlements in Excess of \$10,000 in the month of May 2017 **(ITEM 5)**
7. Authorization to Execute Contract Amendments for My Air Online Development Services **(ITEM 6)**
8. Authorization to Execute Contract Amendments for Cloud Infrastructure & Data Analytics **(ITEM 7)**

**Public Comments:**

No requests received.

**Board Comments:**

None.

**Board Action:**

Secretary Rice made a motion, seconded by Vice Chair Hudson, to **approve** the Consent Calendar Items 2 through 7, inclusive; and the motion **carried** by the following vote of the Board:

AYES: Abe-Koga, Barrett, Gioia, Haggerty, Hudson, Jue, Kaplan, Kim, Kniss, Miley, Mitchoff, Rice, Ronen, Ross, Sanchez, and Sinks.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Canepa, Chavez, Cutter, Groom, Sheehy, Spring. Wagenknecht, and Zane.

**COMMITTEE REPORTS**

9. Report of the Climate Protection Committee Meeting of May 18, 2017 **(ITEM 8)**  
**ITEM TABLED by Chair**
10. Report of the Mobile Source Committee Meeting of May 25, 2017 **(ITEM 9)**  
**ITEM TABLED by Chair**
11. Report of the Personnel Committee Meeting of June 2, 2017 **(ITEM 10)**  
**ITEM TABLED by Chair**

## **PUBLIC HEARINGS**

12. Continuation of Board Consideration of New Regulation 12: Miscellaneous Standards of Performance, Rule 16: Petroleum Refining Facility-Wide Emissions Limits (Rule 12-16) for Adoption and Certification of an Environmental Impact Report (EIR) Section Dealing with Rule 12-16 (**ITEM 13**)

Jack Broadbent, Executive Officer/Air Pollution Control Officer (APCO), explained that this item was a continuation of the Board's discussion at the May 31, 2017 Board meeting, and that, since May 31, staff had continued to develop Rule 12-16. Eric Stevenson, Director of Meteorology, Measurement, and Rules, gave the staff presentation *Regulation 12, Rule 16*, including: staff recommendation; presentation overview; May 31<sup>st</sup> board direction; Communities for a Better Environment (CBE) proposal; revised staff proposal; key issues; reason for changes; summary; staff recommendations; emission limit comparison; staff proposed limit details; permitted projects; and gasoline consumption.

### **Public Comments:**

Public Comments were given by:

Jamie Jefferson, Attorney General, Xavier Becerra's office; Bob Brown, Western States Petroleum Association; Janet Stromberg; 350 Bay Area; Shawn Lee, Chevron; Robert Gould, UCSF; Claire Broome, Berkeley resident; Greg Karras, CBE; Steven Yang, Chevron; Amy Kyle, San Francisco resident; Richard Gray, 350 Bay Area; Heather Kuiper; Lisa Chang, Alamo resident; Shoshana Wechsler, Sunflower Alliance; Linda Hutchins-Knowles, Mothers Out Front; Irene Friedman, California Nurses Association; Bill Quinn, California Council for Environmental and Economic Balance; Bill Whitney, Contra Costa Building Trades; Deborah Behles, CBE; Kevin Bundy, Center for Biological Diversity; Larry Chaset, 350 Bay Area; Greg Feere, California State Building Trades; Gordon Johnson, Shell; Linda Weiner, Sierra Club; Milo Wetherall, Generation: Our Climate; Jed Holtzman, 350 Bay Area; Iren Suhami, Valero; Ron Espinoza, United Steelworkers; Don England, Tesoro; Mark Sloan, Boilermakers Local No. 549; Janet Pyegeorge, Rodeo Citizens Association; Rebecca Auerbach, Richmond resident; Nancy Cuellar, CBE; Mark Roest, 350.org; Sharlia Hall, CBE; Nadia Alvarez, CBE; Laura Gracia, CBE; Steve Zeltzer, San Francisco resident; Rick Pursur, Eichleay; Will McGarvey, Interfaith Council of Contra Costa County; Kathy Wheeler, Shell; Torm Nompraseurt, Asian Pacific Environmental Network; Mark Altgelt, Citizen's Climate Lobby; Diane Bailey, Menlo Park resident; David Page, Service Employees International Union Local 1021; Kelly Jones, 350 Marin; Paul Adler, Phillips 66; Ken Jones, 350 Bay Area; Rand Wrobel, 350 Bay Area; Dennis Bolt, El Cerrito resident; Aimee Lohr, Phillips 66; Carolyn Norrr, Oakland resident; Lalo Norrr, Oakland resident; Julian Norrr, Oakland resident; Peter Welte, San Francisco resident; and Peter Anderson.

### **Board Comments:**

The Board and staff discussed the comparison of proposed facility emission limits from the May 31<sup>st</sup> Board meeting and the new staff-revised limits; what the two proposed standard deviations represent, and the difference between "allowed" emissions and "actual" emissions; projected fuel demand; why staff determined that using a mean of annual GHG emissions and standard deviations for operation variability is more legally and technically defensible methodology than the seven percent cap originally proposed by CBE; the Board's ability to amend Rule 12-16, if and when it is adopted; the tentative adoption schedules for Draft Rules 11-18 and 13-1; the potential for leakage if caps are

implemented and exceeded, and the APCOs' ability to allow additional emissions at facilities, should an unexpected reduction in capacity occur at another facility; the EIR findings regarding allowances for projects that have been permitted but not fully-utilized; the minimal amount of GHG co-benefits that would result from the implementation of Draft Rule 11-18; the speculated outcome of the litigation regarding the Phillips 66 propane-and-butane recovery project, how this project may be affected by the revised version of Draft Rule 12-16, and how that project relates to the two 2006 Phillips 66 projects that do have appreciable GHG emissions, for which District permits were issued; how facilities may adjust if the revised version of Draft Rule 12-16 is implemented, and the Board's request for a six-month socioeconomic status report from staff upon rule implementation; the need for an Ad-Hoc committee that will recommend how the District adjusts its rulemakings according to the CARB's revised Scoping Plan and refineries' resulting actions; the Board's concern about the lack of transparency in the District's process for revising recommended rule language; the required upgrades that each refinery would have to make in order to modernize and comply with the revised version of Draft Rule 12-16; how the District will continue to receive and process permit applications during the period of the Board's deliberation on this rule, prior to its adoption; and the need for the District to stay committed to the proposed adoption schedules of Draft Rules 11-18 and 13-1, regardless of how long it takes for Rule 12-16 to be adopted.

Board Action:

*Motion:* Director Zane made a motion, seconded by Director Wagenknecht, to Certify the Final Environmental Impact Report for Regulation 12, Rule 16; Adopt Regulation 12, Rule 16 with the adjusted GHG emission caps presented by staff on June 21, 2017; and establish an Ad-Hoc Board Petroleum Refinery Committee to review and evaluate the impacts of implementation of Rule 12-16, and coordinate with the State of California to identify GHG reduction opportunities at refineries and support operations. The Refinery Committee would periodically report back to the full Board and make recommendations on adjustments to the emissions limits in 12-16 and additional regulations to further reduce GHG emissions.

*Substitute Motion:* Director Kaplan made a substitute motion, seconded by Director Gioia, to continue this item to a date uncertain, and bring it back with hard caps that do not give an automatic increased allowance based on hypothetical permitted facilities; meanwhile, establish an Ad-Hoc Board Petroleum Refinery Committee to review and evaluate the impacts of implementation of Rule 12-16, and coordinate with the State of California to identify GHG reduction opportunities at refineries and support operations. The Refinery Committee would periodically report back to the full Board and make recommendations on adjustments to the emissions limits in 12-16 and additional regulations to further reduce GHG emissions; the substitute motion carried by the following vote of the Board:

- AYES: Abe-Koga, Barrett, Gioia, Jue, Kaplan, Kim, Miley, Mitchoff, Rice, Ronen, Ross, Sheehy, and Sinks.
- NOES: Haggerty, Hudson, Kniss, Sanchez, Wagenknecht, and Zane.
- ABSTAIN: None.
- ABSENT: Canepa, Chavez, Cutter, Groom, and Spering.

Because the substitute motion was approved, the main motion was no longer needed and was not voted upon.

13. Public Hearing to Consider Adoption of Proposed Amendments to Air District Regulation 3: Fees and Approval of the Filing of a Notice of Exemption from the California Environmental Quality Act (**ITEM 11**)

Mr. Bunger requested that the Board members who were present remain long enough to consider the adoption of proposed amendments to Air District Regulation 3: Fees, and approval of the filing of a Notice of Exemption from the California Environmental Quality Act. In the interest of time, the staff presentation for this item was waived, but has been posted on the website.

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

Director Kaplan made a motion, seconded by Vice Chair Hudson, to **adopt** the proposed amendments to Air District Regulation 3: Fees that would become effective on July 1, 2017 and approve the filing of a California Environmental Quality Act (CEQA) Notice of Exemption; and the motion **carried** by the following vote of the Board:

- AYES: Abe-Koga, Barrett, Gioia, Haggerty, Hudson, Jue, Kaplan, Kim, Kniss, Miley, Mitchoff, Rice, Ronen, Ross, Sinks, Wagenknecht, and Zane.
- NOES: None.
- ABSTAIN: None.
- ABSENT: Canepa, Chavez, Cutter, Groom, Sanchez, Sheehy, and Spring

14. Public Hearing to Consider Adoption of the Air District’s Proposed Budget for Fiscal Year Ending (FYE) 2018 (**ITEM 12**)

Chair Kniss opened the second and final public hearing to consider adoption of a resolution to approve the Budget for the FYE 2018 and various budget related actions. In the interest of time, the staff presentation for this item was waived, but has been posted on the website.

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

Director Kaplan made a motion, seconded by Director Mitchoff, to **adopt** a resolution to approve the Budget for the Fiscal Year Ending 2018 (FYE 2017-2018) and various budget related actions; and the motion **carried** by the following vote of the Board:

AYES: Abe-Koga, Barrett, Gioia, Haggerty, Hudson, Jue, Kaplan, Kim, Kniss, Miley, Mitchoff, Rice, Ronen, Ross, Sinks, Wagenknecht, and Zane.  
NOES: None.  
ABSTAIN: None.  
ABSENT: Canepa, Chavez, Cutter, Groom, Sanchez, Sheehy, and Spring

**PUBLIC COMMENT ON NON-AGENDA MATTERS**

15. **Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3**

Public Comments were given by: Ernesto Arevalo, CBE; and Esther Goolsby, CBE.

**BOARD MEMBERS' COMMENTS**

16. Board Members' Comments

**ITEM TABLED by Chair**

**OTHER BUSINESS**

17. Report of the Executive Officer/Air Pollution Control Officer

**ITEM TABLED by Chair.** Mr. Broadbent's presentation on ozone seasons has been posted on the District website.

18. Chairperson's Report

**ITEM TABLED by Chair**

19. Time and Place of Next Meeting

Wednesday, August 2, 2017, at 375 Beale Street, San Francisco, CA 94105 at 9:45 a.m.

20. Adjournment

The meeting adjourned at 1:53 p.m.

*/s/ Marcy Hiratzka*  
Marcy Hiratzka  
Clerk of the Boards