

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

Board of Directors Special Meeting
Wednesday, May 31, 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:

1. **Opening Comments:** Chairperson, Liz Kniss, called the meeting to order at 9:55 a.m.

Roll Call:

Present: Chairperson Liz Kniss; Vice Chairperson Dave Hudson; Secretary Katie Rice; and Directors Margaret Abe-Koga, Teresa Barrett, David J. Canepa, Cindy Chavez, Pauline Russo Cutter, John Gioia, Scott Haggerty, Rebecca Kaplan, Doug Kim, Karen Mitchoff, Hillary Ronen, Mark Ross, Pete Sanchez, Jeff Sheehy, Jim Spring, Brad Wagenknecht, and Shirlee Zane.

Absent: Directors Carole Groom, Tyrone Jue, Nate Miley, and Rod Sinks.

CONSENT CALENDAR (ITEMS 2 – 3)

2. **Minutes of the Board of Directors Regular Meeting of May 17, 2017**
3. **Board Communications Received from May 17, 2017 through May 30, 2017**

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

Director Wagenknecht made a motion, seconded by Vice Chair Hudson, to **approve** the Consent Calendar Items 2 through 3, inclusive; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARING

4. Public Hearing to Consider Staff's Evaluation of Regulation 12, Rule 16: Petroleum Refining Facility-Wide Emissions Limits (Rule 12-16) and the Associated Environmental Impact Report (EIR)

Jack Broadbent, Executive Officer/Air Pollution Control Officer, introduced this item with a preliminary presentation entitled *Regulation 12, Rule 16*, including: staff recommendation; why this approach; and next steps.

Mr. Broadbent introduced Richard Corey, Executive Officer of the California Air Resources Board (CARB), and asked Mr. Corey to give remarks regarding how staff's recommendation will work in concert with actions that are anticipated to be part of CARB's revised Scoping Plan. Mr. Corey discussed the historical partnerships of California Air Districts and CARB; how the update of CARB's Scoping Plan is his key priority; the environmental justice community's need for additional community protection, community monitoring data, transparency of air pollution data, and opportunities for further reductions of all air pollutants; CARB's review of toxics programs, measures, and regulations to address the increasing susceptibility of youth to toxic pollutants; the establishment of a California Air Pollution Control Officers Association (CAPCOA) working group that focuses on additional industrial-source measures; and the District's focus on greenhouse gas (GHG) reductions. Mr. Broadbent thanked Mr. Corey for his leadership and Director Gioia acknowledged the strong partnership between the District and CARB.

Mr. Broadbent then introduced Eric Stevenson, Director of Meteorology, Measurement, and Rules, who gave the staff presentation *Regulation 12, Rule 16*, including: staff recommendation; summary of presentation; refinery rulemaking history – Board Resolution 2014-07, progress, work on Rule 12-16; Rule 12-16; criteria pollutants addressed through source-oriented rules; Draft Rule 11-18 addresses localized impacts; addressing GHG; timeline for proposed next steps for Rule 12-16; and further action.

Mr. Broadbent then thanked the refinery industry, labor community, and community advocates for their input and involvement up until this point in the rulemaking process.

Chair Kniss opened the hearing to public input.

Public Comments:

Public comments were given by the following speakers:

Greg Karras, Communities for a Better Environment (CBE); Lipo Chanthanasak, Asian Pacific Environmental Network (APEN); Heather Kuiper, DrPH; Ben Ostro, PhD; Robert Gould, MD;

Johnathan Heller, PhD; Emiliano Amaro, CBE; Alex Cohen, CBE; Puja Dahal, APEN; Laura Gracia, CBE; Bob Brown, Western States Petroleum Association; Kim Ronan, Valero; Larry Chaset, 350 Bay Area; Bill Quinn, California Council for Environmental and Economic Balance; Claire Broome, 350 Bay Area; Sue Fisher Jones, Valero; Nicole Mendoza, Chevron; Ron Espinoza, United Steelworkers; Callie Nguyen, Chevron; Patrick Owens, Shell; Kathy Wheeler, Shell; Walt Gill, Chevron; Carolyn Norr, 350 Bay Area; Shawn Lee, Chevron; Steven Yang, Chevron; Matthew Buell, Tesoro; Jed Holtzman, 350 Bay Area; Greg Feere, Contra Costa Building Trades Council (CCBTC); Bill Whitney, CCBTC; Mark Brett, Anvil Corporation; Derrick Kualapai, United Association of Plumbers; George Kikes, Martinez resident; Steve Grillo, Performance Contracting, Inc.; Kathleen McAfee, San Francisco State University; Stew Plock, Silicon Valley Climate Action Alliance; Dennis Hicks, Richmond resident; Jeralyn Moran, Peninsula Interfaith Climate Action Network; John Sakamoto, Eichleay; Albert Kueffner, Alameda Interfaith Climate Action Network; Linda Weiner, Sierra Club; George Smith, East Bay Leadership Council; Lynn McGuire, Environmental Resources Management; Andres Soto, CBE; Harold Burnett, Crocket resident; Richard Gray, 350 Bay Area; Melanie Chopko, Thrive Street Choir; Tian Harter, Mountain View resident; Ratha Lai, APEN; Clover Mann, Rodeo resident; Culoz Davis, Rodeo resident; Tom Stewart, Martinez resident; Judith Sullivan, Benicians for a Safe and Healthy Community; Fern Burch, El Cerrito resident; Frank Koval, Communications Workers of America Local 9415; Jeff Kilbreth, Richmond Progressive Alliance; Kelly Jones, 350 Marin; Lisa Ristorucci, MVCAN.org; Paul Adler, Phillips 66; Marc Ventura, Phillips 66; Mike Miller, Phillips 66; Richard Black, Phillips 66; Mike Avila, Phillips 66; Tyson Bagley, Phillips 66; Deborah Behles, CBE; Kevin Bundy, Center for Biological Diversity; and Brittney King, Sierra Club.

Chair Kniss announced that public input had concluded and that the balance of the discussion would be limited to the members of the Board and staff.

Board Comments:

Director Gioia presented a motion for the Board to consider, containing the following seven provisions:

1. Direct staff to revise Rule 12-16 to cap GHG emissions from Bay Area refineries and to prepare a revised staff report and the Final EIR reflecting this revised rule; this revised staff report shall discuss GHG caps as a backstop to ensure that GHG emissions from refineries do not increase due to changing crude slates or other actions.

2. The revised staff report and Final EIR responses to comments shall further describe the co-pollutant health benefits of Rule 12-16, in particular with respect to fence line communities in close proximity to refineries, as well as the relationship of Rule 12-16 to the revised AB 32 Scoping Plan.

3. Bring the revised Rule 12-16, revised staff report and the Final EIR to the Board for consideration and action at the June 21, 2017 Board meeting.

4. Staff shall return to the Board no later than September 2017 with a plan of how to prioritize development of additional rules to achieve the goal of reducing criteria pollutants, including Particulate Matter (PM) emissions, from refineries by 20% by 2020.

5. Staff will collaborate with CARB and CAPCOA to identify, and facilitate implementation of measures to protect the health of fence line communities by reducing air pollutant emissions from

California refineries and to achieve the State's and District's climate goals by reducing GHG emissions.

6. *Bring Rule 13-1 (Refinery Carbon Intensity Cap) or other measure(s) developed through the CARB/CAPCOA collaboration to reduce GHG and other air pollutant emissions from refineries to the Board for consideration as expeditiously as practicable.*

7. *Bring Rule 11-18 to the Board for consideration in September 2017 to reduce health risks from toxic air contaminants emitted by refineries and other stationary sources throughout the Bay Area.*

Based on this proposed motion, the Board and staff discussed the compatibility of staff's revisions to Rule 12-16 and CARB's revised Scoping Plan; the refinery industry's concern that refineries will be shut down due to the implementation of the Rule 12-16; the District's willingness to listen to all stakeholders; the issue of protecting local communities versus global protection; how the District plans to monitor criteria pollutants that will have been removed from the original provisions of Rule 12-16, should the revised Rule be implemented; the need for additional and immediate stakeholder meetings regarding staff-proposed changes to Rule 12-16; how the revised Rule is to have no sunset provision; when implementation would take effect, if the Rule was adopted; how long it may take to implement a statewide GHG cap on refineries; Board members' confusion due to conflicting messages from CARB; the anticipated impact Rule 12-16 may have on refineries; whether or not the Rule is beyond the District's legal authority; probability of litigation upon adoption of the Rule and when that litigation might occur; the Board's request for a list of required upgrades that each refinery would have to make in order to modernize and comply with the revised Rule; the Board's request for staff to address long-term socioeconomic impacts upon Rule implementation prior to June 21, 2017; the need for an evaluation of the District's rulemaking process; the need for local action, especially considering the President's anticipated withdrawal from the Paris Agreement; the District-proposed three-week turnaround of creating a revised Rule 12-16 hearing package for public review, conducting additional socioeconomic and required refinery modification analyses, and receiving and responding to new public comments; staff's proposal of a six-month check in with the Board upon Rule adoption; and the Board's request to amend the language of the seventh provision of the proposed motion.

At the suggestion of Chair Kniss, and prior to the Board's vote on this item, Director Gioia, revised the seventh provision of the proposed motion as follows:

7. *Bring Rule 11-18 to the Board for consideration as expeditiously as practicable ~~in September 2017~~ to reduce health risks from toxic air contaminants emitted by refineries and other stationary sources throughout the Bay Area.*

Board Action:

Director Gioia made a motion described above, seconded by Director Kaplan, and the motion **carried** by the following vote of the Board:

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

PUBLIC COMMENT ON NON-AGENDA MATTERS

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

No requests received.

BOARD MEMBERS' COMMENTS

6. Board Members' Comments

None.

OTHER BUSINESS

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

Mr. Broadbent's presentation on ozone seasons has been posted on the District website.

8. Chairperson's Report

None.

9. Time and Place of Next Meeting

Wednesday, June 21, 2017, at 375 Beale Street, San Francisco, CA 94105 at 9:45 a.m.

10. Adjournment

The meeting adjourned at 1:33 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards