

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

Board of Directors Regular Meeting
Wednesday, November 15, 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 9:50 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, Pauline Russo Cutter, John Gioia, Carole Groom, Scott Haggerty, Tyrone Jue, Rebecca Kaplan, Doug Kim, Nate Miley, Karen Mitchoff, Hillary Ronen, Mark Ross, Rod Sinks, Jim Sperring, Brad Wagenknecht, and Shirlee Zane.

Absent: Directors Cindy Chavez, Pete Sanchez, and Jeff Sheehy.

COMMENDATIONS/PROCLAMATIONS/AWARDS

2. The Board recognized outgoing Hearing Board member, Gilbert Bendix, P.E., in absentia, for his nine years of service and dedication to protecting air quality in the Bay Area.

CLOSED SESSION (commenced at 9:52 a.m.)

NOTED PRESENT: Director Ronen was noted present at 10:15 a.m.

3. **CONFERENCE WITH LEGAL COUNSEL**

A. EXISTING LITIGATION (Government Code Section 54956.9(a))

Pursuant to Government Code Section 54956.9(a), a need exists to meet in closed session with legal counsel to consider the following cases:

Douglas Hall v. Bay Area AQMD, San Francisco County Superior Court, Case No. CGC-16-556094

Brian Bungler, District Counsel, reported that the Board authorized the completion of negotiations.

B. ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2))

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: one potential case

Mr. Bungler had nothing to report for this item.

OPEN SESSION (commenced at 10:19 a.m.)

NOTED PRESENT: Director Cutter was noted present at 10:17 a.m., and Director Abe-Koga was noted present at 10:18 a.m.

CONSENT CALENDAR ITEMS (4 - 10)

4. Minutes of the Regular Board of Directors Meeting of November 1, 2017
5. Board Communications Received from November 1, 2017 through November 14, 2017
6. Air District Personnel on Out-of-State Business Travel
7. Notices of Violation Issued and Settlements in Excess of \$10,000 in the month of October 2017
8. Quarterly Report of the Executive Office and Division Activities for the Months of July 2017 – September 2017
9. Consider Authorization to Execute Contract Amendments for My Air Online Development Services in Amounts in Excess of \$100,000
10. Set Public Hearing for December 6, 2017, to Consider Adoption of Proposed Technical and Administrative Amendments to the Air District’s New Source Review and Title V Permitting Regulations (Regulation 2, Rule 1,2,4 and 6) and California Environmental Quality Act (CEQA) Negative Declaration

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

Vice Chair Hudson made a motion, seconded by Director Wagenknecht, to **approve** Consent Calendar Items 4 to 10 inclusive; and the motion **carried** by the following vote of the Board:

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

COMMITTEE REPORTS

11. Report of the Nominating Committee Meeting of November 15, 2017

Chair Kniss read:

The Committee met on Wednesday, November 15, 2017, and approved the minutes of November 16, 2016.

The Committee considered nomination of Board Officers for the 2018 Term of Office and recommends David Hudson as Chairperson, Katie Rice as Vice-Chairperson, and Rod Sinks as Secretary.

I move that the Board of Directors approve recommendations of the Nominating Committee.

Public Comments:

No requests received.

Board Comments:

None.

Board Action:

Chair Kniss made a motion, seconded by Director Mitchoff, to **approve** the recommendations of the Nominating Committee; and the motion **carried** by the following vote of the Board:

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

PUBLIC HEARING

12. Public Hearing for Proposed Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities and the associated Recirculated Environmental Impact Report (EIR)

Jack Broadbent, Executive Officer/APCO, prefaced this presentation by listing seven key points about Proposed Rule 11-18. Mr. Broadbent then introduced Greg Nudd, Acting Rules and Strategic Policy Officer, who gave the staff presentation *Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities*, including: overview; background; stakeholder outreach; Board presentations on Rule 11-18; comment letters and emails; responses to comments; Toxic Air Contaminant (TAC) overview; what are TACs; example TACs and their health impacts; exposure and toxicity determine health impacts; how do we measure impacts; Bay Area lifetime cancer risk from TAC exposure; overall downward TAC pollution trends, high remaining risks in some communities; regulatory authority; TAC impact mitigation programs; overview of Proposed Rule 11-18 and key

policy components; risk action thresholds; Rule requirements; potential risk reduction measures; Rule implementation overview and facility risk reduction; health protective standards; case studies of 25/M versus 10/M: (at a Richmond oil refinery, and South Bay cement kiln); flexible methods of compliance; implementation approach; California Environmental Quality Act analysis; and recommendations.

NOTED PRESENT: Director Miley was noted present at 10:29 a.m.

Public Comments:

Public comments were given by Rich Boyd, California Air Resources Board; Steven Yang, Chevron; Erric Castillo, Shell; Shawn Lee, Chevron; Patrick Owens, Shell; Mark Brett, Anvil Corporation; Richard Queros, Chevron; Walt Gill, Chevron; Brenda Kuehnle, Chevron; Bob Lilley, Contra Costa Electric; Steve Zhang, Shell; Ben Priddy, Chevron; Jerry Desmond, Metal Finishing Association of Northern California; Susan Nelson, Shell; Bob Brown, Western States Petroleum Association; Ernesto Arevalo, Communities for a Better Environment (CBE); Justin Shapiro, Andeavor; Alvaro Casanova, Center for Environmental Health; Janet Whittick, California Council for Environmental and Economic Balance; Margo Schueler, Berkeley Councilmember Linda Maio; Gary Hughes, Friends of the Earth US; Gary Latshaw, Cupertino resident; Angela Scott, CBE; Esther Goolsby, CBE; Angie Tam, CBE; Ivan Jimenez, Brightline Defense; Greg Karras, CBE; Shana Lazrow, CBE; Bill Whitney, Contra Costa Building and Construction Trades Council; Don England, Andeavor; Olivia Day, Valero; Lynn McGuire, Environmental Resources Management; Kimberly Ronan, Valero; Kathy Wheeler, Shell; Tanya Stevenson, Breathe CA; Linda Sell, Sunnyvale resident; Juan Lazo Bautista, Breathe CA; Barry Chang, Cupertino Councilman; Jenny Bard, American Lung Association; Gordon Johnson, Shell; Brian Butler, Green Action for Health and Environmental Justice; Janel Edwards, Chevron; Laura Gracia, CBE; Fern Uennatorn, Environmental Defense Fund; Jan Warren, Interfaith Climate Action Network of Contra Costa County; Sarah Deslauriers, California Association of Sanitation Agencies; Peter Dahling, Andeavor; Aimee Lohr, Phillips 66; Richard Gray, 350 Bay Area; Mike Miller, United Steel Workers; Robert Blount, University of California San Francisco; Colin Miller, Oakland Climate Action Coalition; and Sharon Evans, Phillips 66.

Board Comments:

The Board and staff discussed the need to regulate PM from stationary sources that is *not* related to diesel PM (undifferentiated PM); why staff feels that 10 in a million (10/M) is the most feasible risk action level standard; the feasibility of zero risk; which potentially subject sites have been identified by the District as “high-priority” and the criteria that determine “high-priority”; potentially varying timeframe requirements and options for meeting the 25/M and then 10/M risk action levels, depending on a facility’s situation; tasks that would be undertaken by the Dispute Resolution Panel and Tracking and Implementation Work Group, and what those processes would look like, the Board’s appreciation for the creation of these groups, which will keep all stakeholders accountable, and whether these groups’ proceedings would postpone the processing of Health Risk Assessments (HRAs) and facilities’ ability to achieve compliance for the given risk action levels; the need to address cumulative impacts through future regulation; the fact that high cancer risk still remains in certain communities, despite the overall decrease of air pollution; the suggestion of developing a set of best practices for each of the sub-groups within the wide range of facility types that will most likely be impacted by the Rule; whether impacted facilities will be able to use community-side mitigations as risk reduction plans; the feasibility of non-Title V facilities’ HRAs being conducted by a third party; the potential

cost of the HRAs; the manner in which the Board would be involved in oversight of the Rule's implementation, and how frequently staff would be reporting back to the Stationary Source Committee and full Board about the progress of this Rule's implementation; the fact that the positive impacts on human health that this rule may produce have not been quantified or incorporated into the Rule's Socioeconomic Analysis because doing so is not a requirement of the State of California; the fact that the District has regulatory authority over all of the potentially subject sites, some of which are on State and Federal territories; future regulations that staff plans to bring to the Board in 2018, addressing ozone precursors and greenhouse gas emissions from landfill operations; the District's correspondence with Tesla about the Proposed Rule, as the Tesla manufacturing plant in Fremont is the largest in California; how the list of the potentially subject sites may change as staff refines the emissions inventory estimates; the duration of Board meetings at which regulations are being considered for adoption, and the concern that public comments are being cut short; whether the District has issued the Permit to Operate for the new crematorium in East Oakland; the request for additional cost benefit analysis of 25/M and 10/M; the Board's acknowledgement that the adoption of this rule may result in economic burdens the affected sites and industries; concerns that the Best Available Retrofit Control Technologies for Toxics (TBARCT) is not well-defined; the request that staff prepares a semi-annual "report card" of current risk action levels from the affected facilities for the Board's review; and the feasibility of allowing deadline extensions for facilities that could reach risk action levels below 10/M.

Board Action:

Director Gioia made a motion, seconded by Director Sinks, to **approve** the adoption of proposed Regulation 11, Rule 18: Reduction of Risk from Air Toxic Emissions at Existing Facilities (Rule 11-18) and the associated recirculated EIR; and the motion **carried** by the following vote of the Board:

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

PUBLIC COMMENTS ON NON-AGENDA MATTERS

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

Public comments were given by Richard Gray, 350 Bay Area; Tony Fisher, Coalition for Clean Air; Greg Karras, CBE; Shana Lazarow, CBE; Angie Tam, CBE; Esther Goolsby, CBE.

BOARD MEMBERS' COMMENTS

14. Board Members' Comments

Director Kaplan announced that on November 13, 2017, the Alameda County Transportation Commission's Planning, Policy and Legislation Committee recommended approval of the Goods Movement Emissions Reduction Pilot Program, which would advance programs and projects that have recently been discussed at Mobile Source Committee meetings. These include ocean-going

vessel emission control technologies, locomotives, cargo handling equipment, and expanded deployment of zero and near zero emission vehicles with a focus on trucks that operate in Alameda County.

OTHER BUSINESS

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

Mr. Broadbent introduced Jaime Williams, Director of Engineering, who gave an update regarding the District's involvement with the new crematorium in East Oakland. Mr. Williams confirmed that a HRA was conducted on the crematorium using old District HRA guidelines, per District Rule 2-5: Permits - New Source Review of TAC. (The District is required to use the guidelines that were in effect when the application was deemed complete, which was in 2011.) Mr. Williams also said that the facility is being re-evaluated using the District's new HRA guidelines, and that if the facility's risk is found to be above the 10/M risk management threshold or chronic hazard indices, the facility will be subject to evaluation under District Rule 11-18.

Mr. Broadbent presented Winter PM_{2.5} Seasons and Summary of Ozone Seasons. The Board and staff discussed how the Bay Area's PM_{2.5} attainment status is being affected by the recent fires in the North Bay.

16. Chairperson's Report

Chair Kniss announced that the Board will meet twice in December (6 and 20), and that the Board's Annual Retreat date is scheduled for January 17, 2018 in San Ramon.

17. Time and Place of Next Meeting

Wednesday, December 6, 2017, at 375 Beale Street, San Francisco, CA 94105 at 9:45 a.m.

18. Adjournment

The meeting adjourned at 1:42 p.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards