

Bay Area Air Quality Management District
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San Francisco, CA 94105
(415) 749-5073

APPROVED MINUTES

Board of Directors Regular Meeting
Wednesday, May 4, 2022

*Note: Audio recordings of the meeting are available on the website of the
Bay Area Air Quality Management District at
www.baaqmd.gov/bodagendas*

This meeting was conducted under procedures authorized by Assembly Bill 361 (Rivas 2021), allowing remote meetings. Members of the Board of Directors participated both by teleconference (via Zoom) and in person.

1. PUBLIC MEETING PROCEDURE (OUT OF ORDER, ITEM 3)

CALL TO ORDER (ITEM 1)

2. **Opening Comments:** Board of Directors (Board) Chairperson, Karen Mitchoff, called the meeting to order at 9:09 a.m.

Roll Call:

Present: Chairperson Karen Mitchoff; Vice Chairperson John Bauters; Secretary Davina Hurt; and Directors Margaret Abe-Koga (Zoom), Teresa Barrett, David Canepa (Zoom), John Gioia (Zoom), Carole Groom (Zoom), Erin Hannigan (Zoom), David Haubert (Zoom), Lynda Hopkins (Zoom), David Hudson, Tyrone Jue (Zoom), Sergio Lopez, Myrna Melgar (Zoom), Rob Rennie (Zoom), Katie Rice, Mark Ross (Zoom), Brad Wagenknecht, Shamann Walton (Zoom), and Steve Young.

Absent: Directors Pauline Russo Cutter, Otto Lee, and Nate Miley.

3. PLEDGE OF ALLEGIANCE (ITEM 2)

CONSENT CALENDAR (ITEMS 4 – 14)

4. Remote Teleconferencing per Assembly Bill (AB) 361 (Rivas)
5. Approval of the Minutes of April 20, 2022
6. Board Communications Received from April 20, 2022 through May 3, 2022
7. Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2022

8. Authorization to Amend Contract with Communities for a Better Environment, for Partnership, Outreach and Engagement, and Research Support for the Assembly Bill (AB) 617 Community Emissions Reduction Plan (CERP) Process for East Oakland
9. Authorization to Amend Contract with RBA Creative LLC in an Amount Not to Exceed \$201,500 for Facilitation, Technical Support and Steering Committee Member Outreach for the Community Advisory Council (CAC) and the Community Steering Committee (CSC) for the Assembly Bill (AB) 617 West Oakland Community Action Plan
10. Report of the Stationary Source & Climate Impacts Committee Meeting of April 18, 2022
11. Report of the Administration Committee Meeting of April 20, 2022
12. Report of the Richmond Area Community Emissions Reduction Plan Steering Committee Meeting of April 25, 2022
13. Report of the Budget and Finance Committee Meeting of April 27, 2022
14. Report of the Mobile Source & Climate Impacts Committee Meeting of April 28, 2022

Item 7 (Notices of Violations Issued and Settlements in Excess of \$10,000 in the Month of March 2022) **was pulled from the Consent Calendar by Director Young.**

Item 8 (Authorization to Amend Contract with Communities for a Better Environment, for Partnership, Outreach and Engagement, and Research Support for the Assembly Bill (AB) 617 Community Emissions Reduction Plan (CERP) Process for East Oakland) **was pulled from the Consent Calendar by Director Hudson.**

Public Comments

No requests received.

Board Comments

The Board and staff discussed whether Board members may know the details of any fines pertaining to Notices of Violation issued to Valero Refining Company – California; the cost increase of the task order to extend the contract term end date to December 31, 2023, for Partnership, Outreach and Engagement, and Research Support for the AB 617 CERP Process for East Oakland (for Contract No. 2021.175 between the Air District and Communities for a Better Environment); and the request that the language in the Air District’s business contracts contain more specific (rather than vague) terms and objectives.

NOTED PRESENT: Director Groom was noted present at 9:26 a.m.

Board Action

Vice Chair Bauters made a motion, seconded by Director Hudson, to **approve** Consent Calendar Items 4, 5, 6, 9, and 10-14; and the motion **carried** by the following vote of the Board:

- AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.
- NOES: None.
- ABSTAIN: None.

ABSENT: Pauline Russo Cutter, David Canepa, Carole Groom, Otto Lee, Nate Miley.

Director Hudson made a motion, seconded by Secretary Hurt, to **approve** Consent Calendar Items 7 and 8; and the motion **carried** by the following vote of the Board:

AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Carole Groom, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.

NOES: None.

ABSTAIN: None.

ABSENT: Pauline Russo Cutter, David Canepa, Otto Lee, Nate Miley.

PUBLIC HEARING

15. PUBLIC HEARING TO CONSIDER ADOPTION OF PROPOSED NEW REGULATION 13: CLIMATE POLLUTANTS, RULE 5: INDUSTRIAL HYDROGEN PLANTS AND PROPOSED AMENDMENTS OF REGULATION 8: ORGANIC COMPOUNDS, RULE 2: MISCELLANEOUS OPERATIONS; AND CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Alexander Crockett, Interim Executive Officer/Air Pollution Control Officer, introduced Victor Douglas, Rule Development Manager, who gave the staff presentation *Public Hearing on Proposed Regulation 13: Climate Pollutants, Rule 5: Industrial Hydrogen Plants*, including: outcome; outline; requested action; recent rule development history; background; hydrogen production via steam methane reformation; hydrogen production via electrolysis; why do hydrogen vent emissions occur; overview of hydrogen plant configurations; proposed new Rule 13-5 provisions; Rule 8-2 proposed amendments; potential nitrogen oxide (NOx) and greenhouse gas (GHG) emissions impacts of a flare; net annual GHG emissions from potential operation of a flare; aesthetic impact of potential new flares and visible emissions from flares; cost and cost effectiveness analysis; socioeconomic impacts; environmental impacts; statutory findings; Air District impacts; and recommended action.

Chair Mitchoff opened the Public Hearing.

Public Comments

Public comments were given by Kevin Buchan, Western States Petroleum Association; Dr. Stephen Rosenblum, Palo Alto resident; and Rick Shih, PBF Energy, Inc.

Board Comments

The Board and staff discussed what happens to excess hydrogen produced at refinery hydrogen plants; the reason for an added exemption for sources complying with the control requirements of Section 13-5-301; health impacts (upon fenceline communities) of flaring from hydrogen plants; the way in which the Air District differentiates hydrogen plant flaring events and refinery propane flaring events; if such flaring events are visibly different; the difference and tradeoffs between projected NOx and GHG emissions level reductions; whether recycled water may be used for electrolysis; how the cost of

electrolysis compares with other methods of hydrogen production; the new fee to fund four new full-time equivalent staff members, and when that would be implemented, if approved; the total annualized cost associated with flares; the fear and trauma that the sight of flaring can cause for fence-line communities, and the request that the Air District strategizes ways to work with fence-line communities on this issue; whether hydrogen venting is considered a minor flaring event; whether the Air District has a flare event notification system; concerns about claims from industry that the Air District did not respond to public comments submitted during the comment period (ending April 15, 2022); the Alternative Compliance Plan's proposed method that would allow an affected facility to reduce the overall emissions of methane and other GHGs by 90% via an approach approved by the Air District; and proposed reporting requirements.

Chair Mitchoff closed the Public Hearing.

Board Action

Vice Chair Bauters made a motion, seconded by Secretary Hurt, to **adopt** the Proposed New Regulation 13: Climate Pollutants, Rule 5: Industrial Hydrogen Plants, Proposed Amendments of Regulation 8: Organic Compounds, Rule 2: Miscellaneous Operations, and Certification of a Final Environmental Impact Report Pursuant to the California Environmental Quality Act; and to adopt the proposed Board Resolution; and the motion **carried** by the following vote of the Board:

AYES: Margaret Abe-Koga, Teresa Barrett, John Bauters, John Gioia, Carole Groom, Erin Hannigan, David Haubert, Lynda Hopkins, David Hudson, Davina Hurt, Tyrone Jue, Sergio Lopez, Myrna Melgar, Karen Mitchoff, Rob Rennie, Katie Rice, Mark Ross, Brad Wagenknecht, Shamann Walton, Steve Young.

NOES: None.

ABSTAIN: None.

ABSENT: Pauline Russo Cutter, David Canepa, Otto Lee, Nate Miley.

OTHER BUSINESS

16. PUBLIC COMMENT ON NON-AGENDA MATTERS (ITEM 18)

No requests received.

17. BOARD MEMBER COMMENTS (ITEM 19)

Director Lopez expressed his belief that publicly posting responses to comments to proposed regulation is important and a good practice.

18. REPORT OF THE INTERIM EXECUTIVE OFFICER/APCO (ITEM 20)

Mr. Crockett announced that the Air District's 2021 Annual Report was published on May 3, 2022 and can be found at <https://www.baaqmd.gov/publications/annual-reports>. He also asked Dr. Ranyee Chiang, Director of Meteorology and Measurement, to give a summary on recent air quality.

19. **CHAIRPERSON’S REPORT (ITEM 21)**

Chair Mitchoff announced the addition of Santa Clara County Supervisor, Otto Lee, as the Board’s newest member. She also announced the cancellation of the May 16 Stationary Source & Climate Impacts Committee meeting and the May 25 Budget & Finance Committee meeting.

20. **TIME AND PLACE OF NEXT MEETING (ITEM 22)**

Wednesday, May 18, 2022, at 9:00 a.m., via webcast, teleconference, or Zoom, pursuant to procedures in accordance with Assembly Bill 361 (Rivas 2021).

CLOSED SESSION (10:33 a.m.)

21. **PUBLIC EMPLOYEE APPOINTMENT AND EMPLOYMENT (ITEM 16)**

Pursuant to Government Code Section 54957(b)

Title: District Counsel

Reportable Action: None.

22. **CONFERENCE WITH LABOR NEGOTIATIONS (ITEM 17)**

Pursuant to Government Code Section 54957.6

Agency Designated Representatives: Board Chair Karen Mitchoff, Board Vice Chair John Bauters, John Chiladakis, DeeAnne Gillick, Sloan Sakai, Yeung & Wong

Unrepresented Employees: District Counsel

Reportable Action: None.

OPEN SESSION (11:00 a.m.)

23. **ADJOURNMENT**

The meeting adjourned at 11:00 a.m.

/s/ Marcy Hiratzka
Marcy Hiratzka
Clerk of the Boards