



**Air Pollution Control District Governing Board**

Anne Marie Birkbeck-Garcia      Enrique Medina  
Marcus Bush                              Esther Sanchez  
Sean Elo-Rivera                              Jack Shu  
Nathan Fletcher                              Nora Vargas  
Georgette Gomez                              Stephen Whitburn  
Consuelo Martinez

**STATEMENT OF PROCEEDINGS  
AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD  
THURSDAY, NOVEMBER 4, 2021, AT 1:30 P.M.**

- A. **REGULAR MEETING** was called to order at 1:32 p.m.  
Present: Board Members Nora Vargas, Chair; Esther Sanchez, Vice-Chair; Marcus Bush; Sean Elo-Rivera; Nathan Fletcher; Georgette Gomez; Enrique Medina; Jack Shu; also, Paula Forbis, Interim Air Pollution Control Officer; Marvice Mazyck, Clerk of the Air Pollution Control District Governing Board; Rodney Lorang, Senior Deputy County Counsel; and Regan Savalla, Senior Deputy County Counsel.  
Absent: Members Anne Marie Birkbeck-Garcia, Consuelo Martinez, and Stephen Whitburn

- B. **APPROVAL OF STATEMENT OF PROCEEDINGS**  
Approval of the Statement of Proceedings/Minutes for the San Diego County Air Pollution Control District Governing Board October 14, 2021, meeting.

**ACTION**

ON MOTION of Member Elo-Rivera, seconded by Member Sanchez, the Air Pollution Control District Governing Board approved the Statement of Proceedings for the meeting of October 14, 2021.

AYES: Bush, Elo-Rivera, Fletcher, Gomez, Medina, Sanchez, Shu, Vargas  
ABSENT: Birkbeck-Garcia, Martinez, Whitburn

- C. **PUBLIC COMMUNICATION**  
There were no requests to speak for this item.
- D. **INTERIM AIR POLLUTION CONTROL OFFICER REPORT**  
A report was provided to the Board by Interim Air Pollution Control Officer Paula Forbis.

- E. **CONSENT CALENDAR**
  - 1. **ADOPTION OF RESOLUTION RELATING TO THE HOLDING OF TELECONFERENCE MEETINGS**  
*The San Diego County Air Pollution Control District (“District”) is committed to preserving public access and participation in meetings of the Governing Board while promoting and protecting the health and safety of District officials, officers, employees, and members of the public. Under the Ralph M. Brown Act (Gov. Code §54953(b)) (“Brown Act”), all meetings of the District’s legislative bodies, which include the Governing Board and the Hearing Board, are open and public. Under ordinary operation of the Brown Act, a legislative body may use teleconferencing only if: 1) Agendas are posted at all teleconference locations; 2) All teleconferenced locations are listed in the notice and agenda of the meeting; 3) At least a quorum of members are located within the jurisdiction of the legislative body; and 4) Members of the public are allowed to speak at each teleconferenced location.*

*Effective October 1, 2021, AB 361 amended the Brown Act to allow suspension of the general teleconferencing requirements if there is a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing. Revised teleconferencing requirements must still be met, including providing notice of the meeting as otherwise required by the Brown Act, and providing an opportunity for all persons to attend and to address the legislative body directly via a call-in option or an internet-based service option. As of October 1, 2021, the elements to meet under the revised teleconferencing requirements have been met. There is currently a State of Emergency and Dr. Wilma Wooten, the County's Public Health Officer, on September 23, 2021 released a health recommendation which stated that utilizing teleconferencing options for public meetings is an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from the COVID-19 disease.*

*In order to continue with meetings under revised teleconferencing procedures, the Governing Board must adopt a resolution with required findings (Attachment A), and adopt a resolution to renew those findings at least every 30 calendar days. Since the Governing Board's next meeting will not occur within 30 calendar days, the proposed resolution directs the Chair to review the status of the state of emergency and whether state or local officials continue to impose or recommend measures to promote social distancing. If both conditions exist, the Chair is directed to memorialize such determination in writing and such writing will be presented for ratification at the next meeting of the Governing Board.*

**ACTION 1:**

ON MOTION of Member Sanchez, seconded by Member Gomez, the Air Pollution Control District Governing Board took action as recommended, on Consent, adopting Resolution No. 21-007 entitled: A RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT RELATING TO THE HOLDING OF TELECONFERENCE MEETINGS PURSUANT TO GOVERNMENT CODE SECTION 54953(E).

AYES: Bush, Elo-Rivera, Fletcher, Gomez, Medina, Sanchez, Shu, Vargas  
ABSENT: Birkbeck-Garcia, Martinez, Whitburn

**F. AGENDA ITEMS**

**2. AIR POLLUTION CONTROL DISTRICT ADVISORY COMMITTEE**

*The Air Pollution Control District (District) Advisory Committee (Committee) was created on June 22, 1988 by the San Diego County Board of Supervisors, sitting as the Air Pollution Control Board. The Committee was structured to have nine members: five public members appointed by each of the five Supervisors, two environmental group representatives, and two business representatives. The Committee was tasked with making recommendations to the District and the Air Pollution Control Board on matters relating to the "District's annual budget, permit fees, annual progress reports, and regulatory changes." Over time, the Committee membership has dwindled to as few as two or three members, and occasionally failed to make quorum. The Committee has not met since January 13, 2021 and has only three members at this time.*

*In July 2020, the California State Auditor (Auditor) released its final audit of the District. The audit noted the many long-standing vacancies on the Committee, and noted that the restructuring of the District Governing Board pursuant to AB 423 (Gloria, 2019) included the appointment of public members to the Governing Board. As a result, the Auditor recommended that, "Because the new district board will include additional stakeholders who*

*represent some of the interests that the advisory committee was intended to represent, the district board should determine whether the advisory committee is still necessary.”*

*District staff recommends that the Governing Board discontinue the Advisory Committee for several reasons. First, as the Auditor noted, it has been difficult to fill vacancies on the Committee over the last several years. Also, the Governing Board now has public members representing health professional, environmental justice, and technical viewpoints, which are some of the interests that the Committee was designed to represent. Most importantly, APCD has other, more effective avenues to obtain stakeholder input on policy matters. These include regular public workshops for rule amendments, fees, and budget adoption, in addition to monthly meetings of the Portside Environmental Justice Steering Committee, separate quarterly meetings with the APCD/ Industrial Working Group and the Navy, as well as stakeholder outreach. Additionally, the District is developing a public participation plan which will further inform these processes. As a result, staff recommends that the Advisory Committee be discontinued in existence.*

**ACTION 2:**

ON MOTION of Member Vargas, seconded by Member Sanchez, the Air Pollution Control District Governing Board took action as recommended, to discontinue the Air Pollution Control District Advisory Committee.

AYES: Bush, Elo-Rivera, Fletcher, Gomez, Medina, Sanchez, Shu, Vargas

ABSENT: Birkbeck-Garcia, Martinez, Whitburn

**3. UPDATE ON THE DEVELOPMENT OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT INCIDENT RESPONSE PLAN**

*Staff have developed a draft proposed San Diego County Air Pollution Control District (APCD) Incident Response Plan (IRP). The draft plan outlines APCD’s potential responses to major releases of air contaminants that may cause adverse health consequences to the public and result in a multi-agency response. This draft IRP identifies that APCD is not a first responder agency or emergency response coordination body but will work within the Incident Command System (ICS) to minimize public exposure to air contaminants using APCD’s area of expertise. This expertise includes ambient air sample collection, ambient air monitoring, laboratory analysis, odor inspection, investigation, enforcement, and public information. The draft IRP also outlines the general framework of the ICS, the various agencies involved in responding to incidents and their roles, as well as outlining how APCD fits into the Unified Command with the various responding agencies’ resources and the actions APCD can take. This draft IRP also generalizes the levels of response, depending on the severity of the incident’s impact on the surrounding community. Lastly, the draft plan discusses communication pathways to and from APCD as well as steps the public can take for better incident preparation and information.*

*When adopted by your board, a District IRP will support the implementation of Action A1 of the Portside Community Emissions Reduction Plan, the goal of which is to have APCD contribute in an advisory or support capacity to emergency response agencies utilizing the APCD’s resources and expertise for air sample collection, air monitoring, laboratory analysis, inspection, investigation, enforcement, identifying air emissions, health effects, media coordination and general public messaging during an incident impacting air quality.*

*The draft IRP was developed with input from the public and agencies including the County’s Office of Emergency Services and the California Air Resources Board (CARB). The draft IRP also incorporates recommendations from CARB as outlined in its After-Action Review of San Diego*

County's Air Monitoring Response to the July 2020 USS Bonhomme Richard Fire. Additionally, the development of this draft IRP was informed by best practices from other air districts in the State as well as by the Federal Emergency Management Agency's Incident Command System, which is used nationwide to manage incidents regardless of size or type.

**ACTION 3:**

ON MOTION of Member Elo-Rivera, seconded by Member Sanchez, the Air Pollution Control District Governing Board took the following actions as recommended:

1. Received an update on development of a draft proposed San Diego County Air Pollution Control District Incident Response Plan.
2. Directed staff to return to the Board in January 2022 with a proposed final plan addressing the Board's and the public's input.

AYES: Bush, Elo-Rivera, Fletcher, Gomez, Medina, Sanchez, Shu, Vargas

ABSENT: Birkbeck-Garcia, Martinez, Whitburn

**4. ADOPTION OF PROPOSED AMENDMENTS TO RULE 1210 (TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION)**

*Rule 1210 was adopted in 1996 in response to the California Air Toxics "Hot Spots" Information and Assessment Act (Hot Spots Act), Assembly Bill 2588, which requires local air pollution control districts to evaluate toxic air contaminant emissions from various stationary sources and determine which sources generate emissions that may present public health concerns.*

*Rule 1210 establishes thresholds and procedures for public notification and risk reduction requirements. Currently, Rule 1210 requires those facilities with significant cancer risks equal to or greater than 100 in one million to reduce those risks within five years. The cancer risk represents the probability that a person might develop cancer due to exposure to the facility's emissions. Rule 1210 also requires facilities to provide public notification to all persons in the affected area when the facility-wide cancer risk is equal to or greater than 10 in one million. The existing Rule 1210 cancer risk reduction threshold of 100 in one million is ineffective since there are no facilities in San Diego County that create a cancer risk above that threshold, and it does not align with the public notification threshold of 10 in one million.*

*On May 22, 2019, the former San Diego County Air Pollution Control Board directed the Air Pollution Control District (District) to evaluate the cancer risk reduction threshold. After conducting extensive evaluation and considering input from stakeholders, the District is proposing the following amendments to improve public health by reducing the cancer health risk in San Diego County: (1) lower the significant risk threshold for cancer from 100 in one million to 10 in one million; (2) enhance the public notification protocols and public meeting requirements; and (3) consider providing additional time for facilities where it is not feasible to reduce health risks within a 5-year timeframe. The District must consider additional time for some industries because control technology may not be currently available and is still advancing. The proposed amendments include a provision for a 3-year extension to reduce the cancer risk to below the proposed cancer risk reduction threshold. The extension may be granted provided that the facility has installed Best Available Retrofit Control Technology for Toxics (T-BARCT) within the 5-year timeframe. The proposed amendments also provide the potential for additional 3-year extensions provided all technically feasible control measures have been implemented.*

*The proposed amendments to Rule 1210 are necessary to further protect public health from toxic air contaminants by establishing a health protective threshold, requiring progress toward that threshold to the greatest extent feasible, and aligning the risk reduction and public notification thresholds.*

**ACTION 4:**

ON MOTION of Member Fletcher, seconded by Member Vargas, the Air Pollution Control District Governing Board took the following actions as recommended:

1. Found that an Environmental Review of proposed amended Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction has been completed in accordance with Section 15187 of the California Environmental Quality Act (CEQA), and that these proposed amendments are exempt from CEQA under Sections 15330, 15301 and Section 15061 subsection (b)(3) of the CEQA Guidelines.
2. Adopted Resolution No. 21-008 entitled: RESOLUTION ADOPTING AMENDMENTS TO RULE 1210 – TOXIC AIR CONTAMINANT PUBLIC HEALTH RISKS-PUBLIC NOTIFICATION AND RISK REDUCTION, OF REGULATION XII OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT
3. Directed staff to include in the amendments to Rule 1210 - Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction: 1) annual notification, 2) technology reviews in the annual progress reports.
4. Directed staff to integrate additional public engagement methods for notification related to the Hot Spots program in the development of the Public Participation Plan.

AYES: Bush, Elo-Rivera, Fletcher, Gomez, Medina, Sanchez, Shu, Vargas

ABSENT: Birkbeck-Garcia, Martinez, Whitburn

**5. RESOLUTION SUPPORTING THE COUNTY OF SAN DIEGO DEVELOPMENT OF A FRAMEWORK FOR A REGIONAL CARBON SUSTAINABILITY PLAN IN PARTNERSHIP WITH THE UNIVERSITY OF CALIFORNIA SAN DIEGO SCHOOL OF GLOBAL POLICY AND STRATEGY**

*On January 27, 2021, the County of San Diego (County) Board of Supervisors directed the Chief Administrative Officer to develop a framework for a regional carbon sustainability plan in partnership with the University of California San Diego School of Global Policy and Strategy (UC San Diego GPS), which shall include strategies and initiatives to achieve carbon neutrality in the region by 2035. Board Member Shu is requesting the Governing Board's adoption of a resolution in support of these efforts, which will direct the Interim Air Pollution Control Officer and/or their designee to collaborate with the County and other entities on the framework.*

**ACTION 5:**

ON MOTION of Member Shu, seconded by Member Gomez, the Air Pollution Control District Governing Board took action as recommended, adopting Resolution No. 21-009 entitled: RESOLUTION SUPPORTING THE COUNTY OF SAN DIEGO DEVELOPMENT OF A FRAMEWORK FOR A REGIONAL CARBON SUSTAINABILITY PLAN IN PARTNERSHIP WITH THE UNIVERSITY OF CALIFORNIA SAN DIEGO SCHOOL OF GLOBAL POLICY AND STRATEGY.

AYES: Bush, Elo-Rivera, Gomez, Medina, Sanchez, Shu, Vargas

ABSENT: Birkbeck-Garcia, Fletcher, Martinez, Whitburn

G. BOARD MEMBER UPDATES

There were no Board Member updates provided for this item.

H. GOVERNANCE AD HOC COMMITTEE REPORT

A report was provided to the Board by County of San Diego Department of Human Resources Deputy Director Brandy Winterbottom-Whitney regarding the Air Pollution Control Officer recruitment.

I. ADJOURNMENT

The Board adjourned the October 14, 2021, meeting at 3:52 p.m.

NOTE: This Statement of Proceedings sets forth all actions taken by the San Diego County Air Pollution Control District Governing Board on the matters stated.