



**Air Pollution Control District Governing Board**

Anne Marie Birkbeck-Garcia  
Marcus Bush  
Sean Elo-Rivera  
Todd Gloria  
Georgette Gomez  
Terra Lawson-Remer  
Consuelo Martinez  
Enrique Medina  
Esther Sanchez  
Jack Shu  
Nora Vargas

**DRAFT**  
**STATEMENT OF PROCEEDINGS**  
**SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT GOVERNING BOARD REGULAR MEETING**  
**THURSDAY, JUNE 8, 2023, AT 2:00 P.M.**

**A. Roll Call**

REGULAR MEETING was called to order at 2:03 p.m.

Present: Board Members Marcus Bush, Chair; Jack Shu, Vice Chair; Anne Marie Birkbeck-Garcia; Sean Elo-Rivera; Todd Gloria; Consuelo Martinez; Enrique Medina; also, Mike Watt, Air Pollution Control District Deputy Director; Marvice Mazyck, Clerk of the Air Pollution Control District Governing Board; and Veera Tyagi, Senior Deputy County Counsel.

Absent: Members Georgette Gomez, Terra Lawson-Remer, Esther Sanchez, and Nora Vargas

**B. Public Communication**

There was no public testimony provided on this item.

**C. Consent Calendar**

There were no items on the Consent Calendar.

**D. Approval of the Statement of Proceedings/Minutes for the San Diego County Air Pollution Control District Governing Board May 11, 2023 meeting.**

**PUBLIC TESTIMONY:** No public testimony was provided on this item.

**ACTION C:**

ON MOTION of Member Shu, seconded by Member Elo Rivera, the San Diego County Air Pollution Control District Governing Board approved the Statement of Proceedings for the meeting of May 11, 2023.

AYES: Birkbeck-Garcia, Bush, Elo-Rivera, Gloria, Martinez, Medina, Shu

ABSENT: Gomez, Lawson-Remer, Sanchez, Vargas

**E. Agenda Items**

- PUBLIC HEARING: HOLD PUBLIC HEARING AND ADOPT AIR POLLUTION CONTROL OFFICER'S RECOMMENDED BUDGET FOR FISCAL YEAR 2023-24**

**Item Type:** Action

**Recommended By:** Michael Watt, Air Pollution Control Deputy Director

**Overview:** *The budget adoption process is specified in California Health and Safety Code Section 40131 and requires the Governing Board to hold two public hearings that are separated by at least two weeks. The first hearing was held on May 11, 2023, exclusively for the purpose of reviewing the proposed budget and providing the public with the opportunity to comment on it. Today's hearing is the second public hearing for the purpose of budget adoption.*

*The Air Pollution Control Officer's Recommended Budget (Attachment A) for the San Diego County Air Pollution Control District (District) for Fiscal Year 2023-24 is balanced, with \$116 million in expenditures and revenues and 177 positions to advance the District's mission of improving air quality to protect public health and the environment. This includes 175 Fiscal Year 2022-23 Adopted Positions and two recommended new positions. The Recommended Budget also includes \$59.4M in pass-through grant funds for projects that accelerate improvements to air quality and public health and an Operating Fund Balance Reserve equal to an estimated two months of District operating expenditures (\$4.8M), providing a financial safety net to help ensure core programs and services are maintained.*

**Requested Action:**

- 1. Hold Public Hearing and Adopt the Air Pollution Control Officer's Recommended Budget for Fiscal Year 2023-24*
- 2. Adopt the Resolution entitled "RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT TO ADOPT THE BUDGET FOR FISCAL YEAR 2023-24" approving the Air Pollution Control Officer's Recommended Budget for Fiscal Year 2023-24.*
- 3. Find that the requested action is exempt from the requirements of the California Environmental Quality Act pursuant to CEQA Guidelines section 15378(b) because CEQA does not apply to continuing administrative activities or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.*

*\*Member Gomez joined the meeting\**

**PUBLIC TESTIMONY:** No public testimony was provided on this item.

**ACTION E.1:**

ON MOTION of Member Shu, seconded by Member Martinez, the San Diego County Air Pollution Control District Governing Board took action, as requested, adopting a Resolution entitled: "RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT TO ADOPT THE BUDGET FOR FISCAL YEAR 2023-24".

AYES: Birkbeck-Garcia, Bush, Elo-Rivera, Gloria, Gomez, Martinez, Medina, Shu

ABSENT: Lawson-Remer, Sanchez, Vargas

**2. 2022 ANNUAL AIR QUALITY REPORT**

**Item Type:** *Informational*

**Recommended By:** *Melina Meza, Public Information Officer*

**Overview:** *California Assembly Bill 423 (Gloria, 2019) established a requirement for the San Diego County Air Pollution Control District (SDAPCD) to publish an annual air quality report. Accordingly, SDAPCD produced the 2022 Air Quality Report, which provides an overview of the District and also highlights some of the main accomplishments from*

2022. The report contains information regarding the state of the air quality in the region, important actions from every division within SDAPCD, and metrics with graphs. The report was developed with the community in mind to increase understanding of the District's roles and responsibilities to improve air quality. The report will be available online at the SDAPCD website in multiple languages for community inclusivity.

**Requested Action:** Informational Item

*\*Member Sanchez joined the meeting\**

**PUBLIC TESTIMONY:** No public testimony was provided on this item.

**ACTION E.2:**

This item was informational only, no vote was taken by the Board.

3. **PROVIDE UPDATE AND SEEK DIRECTION ON POTENTIAL STRATEGIES TO REDUCE INDIRECT SOURCE EMISSIONS FROM WAREHOUSES, DISTRIBUTION CENTERS, AND PORTS IN SAN DIEGO COUNTY**

**Item Type:** Action

**Recommended By:** Michael Watt, Deputy Director

**Overview:** In 2019, California Assembly Bill 423 (Gloria, 2019) (AB 423) amended State law to restructure and expand the Governing Board of the San Diego County Air Pollution Control District (District). AB 423 also amended the California Health and Safety Code to add a number of specified duties to the District including a direction to "consider adopting an indirect source rule to address pollution from mobile sources that is associated with stationary sources, such as ports, warehouses, and distribution centers." The Clean Air Act defines an indirect source as "...a facility, building, structure, installation, real property, road, or highway which attracts, or may attract, mobile sources of pollution." (42 U.S.C. §7410(a)(5)(C)).

Per the AB 423 requirement, District staff has researched potential indirect source rule concepts, met with numerous stakeholders, and evaluated indirect sources such as ports, warehouses, and distribution centers located throughout San Diego County. Attachment A – Options and Considerations for Reducing Indirect Source Emissions at Warehouses, Distribution Centers, and Ports – provides an update on staff's research and evaluation of the District's legal authority to regulate indirect sources, other California air districts' indirect source rules, warehouse inventory in San Diego County, an overview of the possible rule development process, and ongoing activities associated with a potential Memorandum of Understanding (MOU) with the Port of San Diego.

Warehouses and Distribution Centers

Staff's findings presented in Attachment A suggest that a warehouse indirect source rule and associated administrative fees for facilities above 100,000 square feet in size are potentially feasible and could be successfully implemented in San Diego County. A local rule would provide much-needed emission reductions from the freight sector. However, such a rule is predicted to be the costliest measure the District has ever enacted in terms of the compliance costs per pound of reduced emissions. If the Governing Board directs staff to proceed with rule development, further technical analyses including socioeconomic and environmental impact studies and public review would be conducted in accordance with State law to further assess and verify feasibility prior to rule adoption.

*The Governing Board could also direct staff to pursue rule development of a warehouse indirect source rule as outlined above and incorporate additional requirements for facilities between 50,000 and 100,000 square feet in size to also submit a one-time informational report to the District as part of a proposed rulemaking. Warehousing facilities under 100,000 square feet in size are not currently regulated by any air district. Consequently, additional analysis would be necessary to determine if there are multiple compliance options that may be available to warehouses under 100,000 square feet. This information would provide a critical foundation to the legal defensibility of any indirect source rule from potential claims of federal preemption. Smaller facilities are likely to have different compliance methods and may have fewer compliance options available to them, because of limited operating parameters, and space limitations as compared to larger warehouses. As such, non-regulatory strategies (such as incentive programs and enhanced outreach and education) are strategies that could also be further investigated in lieu of, or in conjunction with, regulatory options. Collection of data from warehouses under 100,000 square feet would better inform District staff as to the inventory and operational characteristics of such facilities, which would allow District staff to further assess potential methods of compliance as part of a possible future rule amendment, or whether non-regulatory strategies are more appropriate.*

*The Board could also decide to direct staff to continue with more proactive engagement and convene a working group of community and industry stakeholders to consider and develop potential alternative regulatory and non-regulatory strategies that could further reduce indirect source emissions at the community level, including approaches for warehouses between 50,000 to 100,000 square feet in size. This alternative approach would allow more conversations, analysis, and brainstorming with affected stakeholders on other possible methods for reducing indirect source emissions from warehousing facilities. This approach would also allow for progress in reducing these emissions through continued implementation of various federal, State, and local measures including California Air Resources Board mobile source regulations and District financial incentive programs while existing litigation of a similar regulatory measure in the South Coast air district is resolved prior to pursuing local rulemaking activities.*

### Ports

*The Port of San Diego's 2021 Maritime Clean Air Strategy (MCAS) established aggressive goals and timelines for reducing emissions on Port tidelands, an effort the District fully supports. However, achieving such goals is anticipated to encounter financial, infrastructure, and operational challenges. Similarly, controlling indirect source emissions from such a facility is expected to encounter challenges as well. For example, an extended timeframe to develop a port-specific indirect source rule may not be appropriate to achieve many near-term MCAS goals. Additionally, much of the air pollution from port operations is generated from ship activities, which could be challenging to regulate through a port-specific indirect source rule at the local level.*

*Like warehouses, port operators would also require having a menu of options available to comply with a possible rule, which in some cases may not be available or possible at a port facility. A port-specific indirect source rule would also require navigating complex international and federal regulations, and the likelihood of possible litigation, given that no air district to date has ever regulated indirect sources from port operations. Such an effort is now underway in the Los Angeles air basin with rulemaking expected later this*

year. However, initial efforts are expected to focus only on containerized non-refrigerated cargo, which the Port of San Diego does not currently receive.

As a result of these complexities and to assist in achieving MCAS goals, staff's findings in Attachment A suggest an MOU with the Port of San Diego would be appropriate. Pursuing an MOU with the Port of San Diego would allow each agency to partner on emissions reduction, facilitative, and health-protective mitigation measures that can support progress towards achieving cleaner equipment along the Port tidelands. An MOU, if pursued, could also be developed more quickly than a rule, and is considered more suitable for inclusion of facilitative and incentive-based measures that can help to achieve air quality goals. An MOU can also provide more flexibility to allocate incentive funding from the District to such projects and Port tenants that may still be considered surplus to regulation, whereas a rule would significantly limit such funding opportunities. The District and the Port believe both agencies can continue to work collaboratively to move MCAS goals closer to reality.

Today's requested actions would not establish any immediate new air pollution control requirements. Rather, upon the Board's review and consideration of the District's report (Attachment A – Options and Considerations for Reducing Indirect Source Emissions at Warehouses, Distribution Centers, and Ports) in relation to the requested actions, the Governing Board may direct staff to pursue various potential options for controlling indirect sources of emissions from these facilities in San Diego County at a later date.

**Requested Action:**

1. Based on staff's research to address indirect source emissions from warehouses and distribution centers in San Diego County, direct staff to take one of the following actions today:
  - a. Continue proactive engagement by convening a working group of community and industry stakeholders to consider and develop potential alternative regulatory and non-regulatory strategies that could further reduce indirect source emissions at the community level, including approaches for warehouses between 50,000 to 100,000 square feet in size; OR
  - b. Begin formal rule development activities and return to the Governing Board after completing associated technical analyses with a proposed rule to reduce indirect source emissions from warehouses and distribution centers at or above 100,000 square feet in size, as well as a proposed schedule of fees to be paid by affected facilities as necessary to recover the District's costs to administer and enforce the proposed warehouse rule; OR
  - c. Same as Requested Action 1b but incorporate additional reporting requirements for warehouses between 50,000 and 100,000 square feet in size into proposed rulemaking to help inform District staff when seeking a possible rule amendment in the future.
2. Based on staff's research to address indirect source emissions from ports in San Diego County, direct staff to pursue a Memorandum of Understanding (MOU) with the Port of San Diego that includes emissions reduction, facilitative, and health-protective mitigation measures, and return to the Governing Board with an update by the end of 2023.

**PUBLIC TESTIMONY:**

Philip Gibbons on behalf of the Port of San Diego  
Nicholas Paúl on behalf of the Environmental Health Coalition  
Randy Skow on behalf of the Industrial Environmental Association  
Alejandra Mier Y Teran on behalf of the Otay Mesa Chamber of Commerce  
Martiza Garcia, AB617 Portside Steering Committee member  
Christina Marquez on behalf of IBEW Local 569  
Sophie Silvestri on behalf of Pasha Automotive Services  
Sarah Marsh on behalf of Dole Fresh Fruit  
Lesly Gallegos on behalf of Casa Familiar/International Border Steering Committee member  
Craig Benedetto on behalf of NAIOP San Diego  
Lauren Cazares on behalf of the San Diego Regional Chamber of Commerce  
Alejandro Amador, San Ysidro resident

**ACTION E.3.1:**

Directing the San Diego County Air Pollution Control District to proceed with Requested Action 1a prioritizing impacted communities and consideration of smaller warehouses and return to the Board on August 10, 2023 with a timeline for action and proposed composition of the working group; ON MOTION of Member Birkbeck-Garcia, seconded by Member Elo-Rivera, the San Diego County Air Pollution Control District Governing Board took action, approving Requested Action 1a.

AYES: Birkbeck-Garcia, Bush, Elo-Rivera, Gomez, Martinez, Medina, Shu

NOES: Sanchez

ABSENT: Gloria, Lawson-Remer, Vargas

**ACTION E.3.2:**

ON MOTION of Member Bush, seconded by Member Elo-Rivera, the San Diego County Air Pollution Control District Governing Board took action, approving Requested Action 2.

AYES: Birkbeck-Garcia, Bush, Elo-Rivera, Martinez, Medina, Shu

NOES: Gomez

ABSTAIN: Sanchez

ABSENT: Gloria, Lawson-Remer, Vargas

**F. Air Pollution Control Deputy Director Report**

Deputy Director Mike Watt provided a report to the Board regarding the SDAPCD All-hands meeting, staff participation in the Annual Industrial Environmental Conference, Air Toxic Hot Spots updates, and introduction of the new SDAPCD Chief of Support Services Stephanie Nicholas.

**G. Planning and Policy Committee Report**

No report was provided to the Board.

**H. Adjournment**

The Air Pollution Control District Governing Board adjourned the June 8, 2023 meeting at 4:41 p.m.

*The statements contained in this draft document are subject to change until they are approved in their final form by the Air Pollution Control District Governing Board at a subsequent public meeting.*