

RESOLUTION TO PROPOSE EMISSION LIMIT “CAPS” ON REFINERY-WIDE CLIMATE AND PARTICULATE AIR POLLUTION IN RULE 12-16

WHEREAS the mission of the Bay Area Air Quality Management District (“Air District”) is “to create a healthy breathing environment for every Bay Area resident while protecting and improving public health, air quality, and the global climate.”

WHEREAS Air District research has demonstrated that current levels of particulate matter air pollution in the Bay Area remain unacceptably harmful to public health.

WHEREAS there is a scientific consensus that deep cuts in greenhouse gas (“GHG”) emissions are needed quickly to avoid severe global climate impacts.

WHEREAS Air District and Air Resources Board data show that oil refining is the largest industrial source of particulate matter and GHG emissions in the Air District’s jurisdiction.

WHEREAS on April 26, 2010, in *Communities for a Better Environment et al. v. City of Richmond and Chevron Products Company*, the California Court of Appeal confirmed the authority and duty of agencies under the California Environmental Quality Act, to identify, to evaluate, and to lessen or avoid potentially significant air emissions impacts on public health and the climate resulting from projects that change refinery oil feedstock quality.

WHEREAS an Air District Regulatory Concept Paper for a Petroleum Refinery Emissions Tracking Rule dated May 30, 2012 (“Concept Paper”) found that foreseeable changes in oil feedstock quality have the potential to increase Bay Area refinery emissions.

WHEREAS the May 30, 2012 Concept Paper also found that: “All Bay Area refineries have ‘grandfathered’ emission sources that were not subject to NSR, and so none of these facilities have overall mass emission limits that apply to the entire refinery.”

WHEREAS the Concept Paper found the need for a new rule to prevent any significant increase in refinery-wide emissions, and anticipated adopting this rule by June 2013.

WHEREAS the new rule to prevent emission increases has not yet been brought to the Air District Board for adoption, and despite the lack of any refinery-wide emission limits, the Air District Staff states that it cannot delay action on permits for new oil projects.

WHEREAS from 2012 through 2015, at least ten oil infrastructure proposals that could increase Bay Area refinery emissions by enabling changes in oil feedstock quality were proposed, including an oil train terminal in Richmond, a major refinery modification in Richmond, a refinery wharf expansion proposal in Martinez, a proposal to transload oil in Pittsburg from trains and ships to pipelines serving multiple Bay Area refineries, an oil train unloading proposal at the Benicia refinery, and five interrelated proposals at the Phillips 66 San Francisco Refinery, including two wharf throughput expansions and an LPG debottlenecking expansion at its Rodeo facility as well as an oil train unloading proposal and crude throughput expansion at its upstream facility in Nipomo, California.

WHEREAS on October 15, 2014, in response to public concern over delays in limiting refinery-wide emissions, the Air District Board adopted Resolution 2014–7, directing its Staff to prepare Rule 12-16 “to set emissions thresholds and mitigate potential emissions increases, for proposed adoption by the Board of Directors not later than Spring of 2015” and establishing a goal to achieve “as much emissions reductions as are feasible.”

WHEREAS on December 17, 2014, the Air District Board affirmed its direction to Staff for implementing Resolution 2014–7, including the preparation of new or revised “source-specific” rules to reduce emissions in a few parts of refineries, and proposed Rule 12-16 to prevent increases in refinery-wide emissions.

WHEREAS the Air District Staff did not propose Rule 12-16 for adoption in Spring 2015.

WHEREAS in two comment letters to the Air District dated March 27, 2015, Communities for a Better Environment (“CBE”), United Steelworkers Local 5 (the labor union local that represents about 80% of Bay Area refinery workers), and twenty other community, labor, environment and academic groups jointly recommended that Rule 12-16 include specific, enforceable, numeric emission limits on each refiner’s facility-wide emissions, based on actual current emissions, and on September 21, 2015, CBE and other groups provided the Air District a detailed factual description of these “refinery emission caps” on GHGs, particulate matter, and the particulate matter precursors nitrogen and sulfur oxides.

WHEREAS on June 3, 2015, in response to public and Board comments, the Air District Staff stated that it would provide an analysis that would allow the Board to consider the refinery emission caps as an option for inclusion in Rule 12-16 at a hearing in late 2015.¹

WHEREAS on December 16, 2015, instead of providing analysis of the refinery emission caps, or any proposal for Rule 12-16 that the Board could consider for adoption in 2015, the Air District Staff asserted a “a strong commitment” to provide a full analysis of the refinery emission caps, that would allow the Board consider the refinery emission caps as an option for adoption, to the Board’s Stationary Source Committee, by May 2016.²

WHEREAS on February 25, 2016 the Air District Staff reported to the Stationary Source Committee that it now plans to delay any refinery-wide emission limits for another year.

WHEREAS the Board finds that further delay in correcting the failure to establish limits on refinery-wide emissions of GHGs and particulate matter air pollution is unacceptable.

THEREFORE BE IT RESOLVED THAT the Board directs the Air District Staff to prepare a rule adoption package for Rule 12-16 that will allow the Board to consider adopting, and, if it so chooses, to adopt, the refinery emission caps identified in the September 21, 2015 community proposal at a public hearing to be held not later than August 2016.

AND BE IT FURTHER RESOLVED THAT the rule adoption package for Rule 12-16 may include other options to prevent refinery-wide emission increases, however, the Air District Staff shall not delay the adoption of Rule 12-16 to develop such other options.

AND BE IT FURTHER RESOLVED THAT the Air District Staff shall schedule a public hearing of the Board to consider adoption of proposed Rule 12-16 to be held in a Bay Area refinery community on a weekday evening not later than August 2016.

¹ 6/3/2015 Webcast Archive, see esp. 02:52:35–03:03:29; 03:14:00–03:22:07; 03:25:00–03:29:00.

² 12/16/2015 Webcast Archive, see esp. 03:36:00–03:37:45 and 03:45:00–03:48:00.