

BOARD MEETING DATE: June 6, 2014

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the May 2, 2014 meeting.

**RECOMMENDED ACTION:**

Approve Minutes of the May 2, 2014 Board Meeting.

Sandra McDaniel,  
Clerk of the Boards

SM:dg

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**FRIDAY, MAY 2, 2014**

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was held at District Headquarters, 21865 Copley Drive, Diamond Bar, California. Members present:

William A. Burke, Ed.D., Chairman  
Speaker of the Assembly Appointee

Mayor Dennis R. Yates, Vice Chairman  
Cities of San Bernardino County

Mayor Pro Tem Ben Benoit  
Cities of Riverside County

Supervisor John J. Benoit (left at approx. 10:25 a.m.)  
County of Riverside

Councilmember Joe Buscaino  
City of Los Angeles

Councilmember Michael A. Cacciotti  
Cities of Los Angeles County – Eastern Region

Supervisor Josie Gonzales (arrived at 9:10 a.m.)  
County of San Bernardino

Dr. Joseph K. Lyou  
Governor's Appointee

Mayor Judith Mitchell (arrived at 9:15 a.m.)  
Cities of Los Angeles County – Western Region

Supervisor Shawn Nelson (arrived at 10:00 a.m.)  
County of Orange

Dr. Clark E. Parker, Sr.  
Senate Rules Committee Appointee

Mayor Miguel A. Pulido  
Cities of Orange County

Member absent:

Supervisor Michael D. Antonovich  
County of Los Angeles

**CALL TO ORDER:** Chairman Burke called the meeting to order at 9:05 a.m.

- Pledge of Allegiance: Led by Dr. Parker.
- Opening Comments

Councilman Cacciotti. Expressed his support for the benefits associated with electric vehicle technology including lower maintenance needs than traditional gas-fueled vehicles. He also noted that use of the Gold Line from Pasadena to Los Angeles has increased since its inception in 2003 from 300,000 people to approximately 1.2 million people each month, and is expected to extend to Azusa Pacific University and Citrus College sometime in September 2015.

Mayor Pulido. Noted that a half-cent sales tax increase in Orange County has generated substantial monies, including approximately \$1.2 billion towards improving transit. He highlighted the efforts now taking place in Orange County to build a new transit line using electric street cars that would go from the Santa Ana Regional Transportation Center through Anaheim and John Wayne Airport, eventually connecting to the Pacific Electric right-of-way that would connect to LAX.

Dr. Parker. Announced that he recently attended the Executive Board of the Hydrogen and Fuel Cell Technical Advisory Committee where it voted to support the infrastructure of approximately 68 hydrogen fueling stations, from 2016 until 2020, due to funding constraints and difficulty obtaining construction permits. He also noted that he was invited to speak next week at California State University, Los Angeles, for the opening of their hydrogen fueling station, which is expected to be fully functional this summer.

In response to Dr. Burke's inquiry about CARB's recent ruling on trucks, Mayor Mitchell explained that because small fleets, consisting of one to three trucks, were unable to comply with the January 1, 2014, deadline due to financing difficulties and operational problems associated with the use of diesel particulate filters in older trucks, CARB created certain exemptions for small fleets as well as for agricultural vehicles, and areas that do not have NOx problems.

(Supervisor Gonzales and Mayor Mitchell arrived at 9:10 and 9:15 a.m., respectively)

## **CONSENT CALENDAR**

1. Approve Minutes of April 4, 2014 Board Meeting

2. Set Public Hearings June 6, 2014 to Consider Amendments and/or Adoption to SCAQMD Rules and Regulations:
  - (A) Amend Rule 2202 - On-Road Motor Vehicle Mitigation Options, Rule 2202 Implementation Guidelines, Rule 301 Permitting and Associated Fees, and Rule 311 Air Quality Investment Program Fees
  - (B) Amend Regulation III – Fees

**Budget/Fiscal Impact**

3. Execute Contract and Reissue RFP for Third-Party Investigations of Unplanned Shutdowns of Emission Control Devices at Large Lead-Acid Battery Recycling Facilities
4. Recognize Revenue, Execute Contracts and Purchase Equipment to Support Hydrogen Readiness in Early Market Communities **E**
5. Amend Contract to Develop and Demonstrate Battery Electric Drayage Trucks **E**
6. Approve Truck Projects under “Year 4” Proposition 1B-Goods Movement Program
7. Issue RFP to Expand and Upgrade Electric Vehicle Charging Infrastructure at SCAQMD Headquarters **E**
8. Recognize Revenue and Appropriate Funds for PM2.5 Monitoring Program and Issue Purchase Orders for Air Monitoring and Analysis Equipment
9. Appropriate Funding and Authorize Enhancements to SCAQMD’s Air Toxics Monitoring Program
10. Approve Contract Awards and Modifications Approved by MSRC

**Items 11 through 17 - Information Only/Receive and File**

11. Legislative & Public Affairs Report
12. Hearing Board Report

13. Civil Filings and Civil Penalties Report
14. Lead Agency Projects and Environmental Documents Received by SCAQMD
15. Rule and Control Measure Forecast
16. Report of RFPs and RFQs Scheduled for Release in May
17. Status Report on Major Projects for Information Management Scheduled to Start During Last Six Months of FY 2013-14

Dr. Lyou announced his abstention on the following items involving contracts with those who have made contributions/donations to his employer, Coalition for Clean Air: Agenda Item No. 4, as Bevilacqua-Knight, Inc. is a potential source of income and is materially affected by this item; and Agenda Item No. 5, as Transportation Power is a potential source of income and is materially affected by this item.

Councilman Cacciotti announced that, while he was not required to recuse himself from Agenda Item No. 10, he wanted to note for the record that he is a councilmember for the City of South Pasadena, which is one of the contractors for Item No. 10.

Agenda Item No. 2 was withheld for public comment.

MOVED BY LYOU, SECONDED BY CACCIOTTI, AGENDA ITEMS 1 AND 3 THROUGH 17 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Gonzales, Lyou (*except Items #4 & #5*), Mitchell, Parker, Pulido and Yates.

NOES: None.

ABSTAIN: Lyou (*Items #4 & #5 only*).

ABSENT: Antonovich and Nelson.

18. Items Deferred from Consent Calendar

2. Set Public Hearings June 6, 2014 to Consider Amendments and/or Adoption to SCAQMD Rules and Regulations:
  - (A) Amend Rule 2202 - On-Road Motor Vehicle Mitigation Options, Rule 2202 Implementation Guidelines, Rule 301 Permitting and Associated Fees, and Rule 311 Air Quality Investment Program Fees
  - (B) Amend Regulation III – Fees

The following individual addressed the Board on Agenda Item No. 2(A).

Curt Coleman, on behalf of Richard Freidman, expressed concern about the language for the proposed amendments. He noted that he has been corresponding with staff regarding alternative language that he hopes will be included prior to the public hearing.

MOVED BY CACCIOTTI, SECONDED BY B. BENOIT, AGENDA ITEM 2 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Lyou, Mitchell, Parker, Pulido and Yates.

NOES: None.

ABSENT: Antonovich, Gonzales, and Nelson.

**BOARD CALENDAR**

19. Administrative Committee
20. Legislative Committee
21. Mobil Source Committee

- 22. Stationary Source Committee
- 23. Technology Committee
- 24. Mobile Source Air Pollution Reduction Review Committee
- 25. California Air Resources Board Monthly Report

Dr. Wallerstein explained that AB 2242 (Perea) has been put on hold by the author and asked that the Board not take action on it today, but that the item be returned to Legislative Committee for detailed discussion of incentive funding-related legislation. He noted that the Committee chair was agreeable to this request.

MOVED BY GONZALES, SECONDED BY BUSCAINO, AGENDA ITEMS 19 THROUGH 25 APPROVED AS RECOMMENDED, RECEIVING AND FILING THE BOARD COMMITTEE AND MSRC REPORTS, AND ADOPTING THE POSITIONS ON LEGISLATION AS SET FORTH BELOW, EXCEPT AB 2242 WHICH WAS REFERRED BACK TO LEGISLATIVE COMMITTEE, BY THE FOLLOWING VOTE:

AYES: B. Benoit, J. Benoit, Burke, Busciano, Cacciotti, Gonzales, Lyou, Mitchell, Parker, Pulido and Yates.

NOES: None.

ABSENT: Antonovich and Nelson.

<b>Agenda Item</b>	<b>Recommended Action</b>
AB 2013 (Muratsuchi) Vehicles: High-Occupancy Vehicle Lanes	Support
SB 1204 (Lara and Pavley) California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program	Support
SB 1275 (De Leon) Vehicle Retirement and Replacement: Charge Ahead California Initiative	Support and Work with the Author

Proposed Federal Surface  
Transportation Law (MAP 21)  
Reauthorization Language

Approve Proposed Language with  
Amendments

## **PUBLIC HEARINGS**

### 26. Amend Rule 1130 – Graphic Arts (*Continued from April 4, 2014 Board Meeting*)

Naveen Berry, Planning and Rules Manager, gave the staff presentation and noted recommended modifications to the adopting resolution in the errata sheet which was provided to the Board members and copies made available to the public.

Mr. Berry responded to Dr. Parker's inquiry about the uncertainty in testing the products by explaining that there is a level of uncertainty or error band in the test methods for measuring the VOC content for thin film energy curable products. At the request of the energy curable industry, staff has incorporated their sponsored test method for determining VOC content for thin film energy curable products, and recognizes that because of the level of uncertainty in that test method, a 10 grams per liter product may test up to 16 g/l. He added that the manufacturers typically do not test each batch of a product and rely on formulation data to qualify and label the product as 10 g/l of VOC content. Staff is proposing that the District also be permitted to use the formulation data to evaluate the composition of the coatings.

Dr. Wallerstein added that the District would consider the product to still be in compliance with the rule at 16 g/l and no enforcement action would be taken. He noted that the industry representatives are requesting to raise the VOC limit to 20 g/l, but based on the data, he believes that staff has accounted for the error margin in laboratory testing, and therefore, it is not necessary to raise the VOC limit to 20 g/l.

In response to Mayor Yates' inquiry about the number of NOV's issued to these businesses within the last 10 years, Mr. Berry indicated that to the best of his knowledge, staff has not issued any NOV's for the thin film energy curable products.

Councilman Buscaino asked about the outreach made to the industry what their comments and/or concerns were relating to the amendment.

Mr. Berry explained that staff worked with the Printing Industries of America in Southern California and staff addressed all of their concerns in terms of report modifications, rule language, definitions, and clarifications. He also noted that RadTech's input resulted in significant changes to the staff proposal, without including their request for a higher VOC exemption limit.

Dr. Wallerstein noted that the Printing Industries of Southern California, supports the proposed amendments as indicated in their written comments.

The public hearing was opened and the following individuals addressed the Board on Agenda Item 26.

GARY JONES, Printing Industries Association of Southern California

Expressed support for PAR 1130; and while they are not opposed to RadTech's request to exempt products with a VOC content of 20 g/l or less, they disagree with RadTech's questioning of the use of a VOC retention factor for conventional, lithographic and letter press inks. He pointed out that the factor was established by U.S. EPA, and they have referenced the factor in various documents from the 1970's to 2007, resulting in the retention factor being adopted by all air districts in California and throughout the nation.

RITA LOOF, RadTech International

Expressed support for a 20 g/l threshold rather than 16 g/l because of the uncertainty in testing and the burden placed on small businesses to conduct multiple tests in order to measure the small amounts of VOC in the products; noted that some uncertainty among industry businesses is present because of staff's determination on a case-by-case basis of what test method is suitable; and urged the Board to make policy decisions that incentivize pollution prevention. (Submitted Written Comments)

Dr. Wallerstein commented that this rule amendment seeks to assure the industry that a common practice, pursuant to Board approval, will be followed.

Submitted Written Comments

Douglas S. DeLong, DDU Enterprises, Inc.  
Dene Taylor, Ph.D., Specialty Papers & Films, Inc.

There being no further public testimony on this item, the public hearing was closed.

In response to Dr. Lyou's question regarding the estimated cost for a small business to run the required tests, Mr. Berry indicated that product manufacturers will use formulation data to list the VOC content. He noted that repeated testing is not necessary and one test, at a cost of approximately \$500 depending on complexity, may be performed to validate the findings.

In response to Councilman Cacciotti's question regarding testing equipment that may indicate a VOC content of approximately 17 g/l with that result falling within the error band of the test used, Kurt Wiese, General Counsel, explained that it would be unlikely that a prosecution would be pursued under those circumstances.

In response to Councilman Buscaino's question about the health impacts from 20 g/l as opposed to 10 g/l, Dr. Wallerstein noted that although it is a small

impact, collectively all emission reductions are necessary to meet the federal clean air requirements.

Supervisor Gonzales noted that the rule was last amended in 1999, and that it is the Board's responsibility to revisit rules and determine how to strengthen them and provide a clearer guideline.

MOVED BY YATES, SECONDED BY PULIDO, AGENDA ITEM 26 APPROVED AS RECOMMENDED BY STAFF, ADOPTING RESOLUTION NO. 14-7 CERTIFYING THE NOTICE OF EXEMPTION AND AMENDING RULE 1130, WITH THE MODIFICATIONS TO THE RESOLUTION AS STATED ON THE ERRATA SHEET AND NOTED BELOW, BY THE FOLLOWING VOTE:

AYES: B. Benoit, J. Benoit, Burke, Busciano, Cacciotti, Gonzales, Lyou, Mitchell, Parker, Pulido and Yates.

NOES: None.

ABSENT: Antonovich and Nelson.

**RESOLUTION**

After the seventh **WHEREAS...delete (in **BOLD STRIKEOUT**)** and add (in **BOLD DOUBLE UNDERLINE**) the following language:

“**WHEREAS**, the SCAQMD Governing Board has directed staff, consistent with current practices, to consider uncertainties associated with an approved test method prior to taking any compliance action. **For example, for Thin Film Energy Curable products, the uncertainty in ASTM Test Method 7767, for a product with VOC content of 10 g/l may yield up to 16 g/l as tested, and thus no compliance action will be taken;** and

**WHEREAS**, the SCAQMD Governing Board has directed staff to work with stakeholders to continue the development and use of appropriate alternative method(s) to determine an equivalent VOC content, **including the use of formulation data**, and”

27. Amend Rule 1155 – Particulate Matter (PM) Control Devices

Staff waived the oral presentation on Agenda Item 27.

The public hearing was opened and, there being no requests from the public to speak on this item, the public hearing was closed.

MOVED BY LYOU, SECONDED BY CACCIOTTI, AGENDA ITEM NO. 27 APPROVED AS RECOMMENDED BY STAFF, ADOPTING RESOLUTION NO. 14-8 CERTIFYING THE NOTICE OF EXEMPTION AND AMENDING RULE 1155, BY THE FOLLOWING VOTE:

AYES: B. Benoit, J. Benoit, Burke, Busciano, Cacciotti, Gonzales, Lyou, Mitchell, Parker, Pulido and Yates.

NOES: None.

ABSENT: Antonovich and Nelson.

(Supervisor Nelson arrived at 10:00 a.m.)

28. Amend Rule 102 – Definition of Terms

Naveen Berry, Planning and Rules Manager, gave the staff presentation and noted recommended modifications to PAR 102 and the adopting resolution as set forth in the errata sheet, copies of which were provided to the Board members and made available to the public.

The public hearing was opened and the following individuals addressed the Board on Agenda Item 28.

KATY WOLF, Institute for Research and Technical Assistance

Thanked staff for narrowing the exemption for HFO-1233zd for vapor degreasers only; noted that the worker exposure limit of 800ppm set by the supplier, Honeywell, is in stark contrast to the limit of 2ppm determined from OEHHA analysis; and requested that the Board require Honeywell to institute a medical surveillance program for the workers using HFO-1233zd in vapor degreasers. (Submitted Written Comments)

RYAN HULSE and KIMBERLY MILLER, Honeywell

Expressed support for the original staff recommendation to fully exempt HFO-1233zd, which has been evaluated by OEHHA and found to be significantly less toxic than the currently used compound.

CRAIG ISAACS, PSC

Noted the need for a substitute product for HCFC-225, such as the replacement created by Honeywell, which is significantly less toxic than current compounds used by industry; and added that the exemption is most needed for solvent cleaning.

DOUG RAYMOND, National Aerosol Association

Expressed support for the original proposal for HFO-1233zd as an unrestricted exemption; noting that Honeywell has developed a compound that has low toxicity, low global warming potential and is less ozone depleting. He also complained about the last minute change in staff recommendation.

There being no further public testimony on this item, the public hearing was closed.

In response to Dr. Burke's question about the late decision to make the exemption restricted, Dr. Wallerstein commented that staff had revisited the data the day prior to the meeting to reach the final recommendation to the Board. He clarified that the recommendation would exempt vapor degreasing applications only, since the chemical currently used in that application is being phased out at the end of 2014. Given the dispute over the science, and the Board's past concerns about worker exposure and the potential resulting health effects, staff is proposing an additional six months to perform a more detailed analysis of the data, present the results to the Stationary Source Committee and subsequently return to the Board with a final recommendation.

Chairman Burke expressed concern for the late notice to stakeholders regarding the change to the exemption.

Supervisor Nelson suggested that it would be prudent to provide an unrestricted exemption for a brief period of time. This would allow staff to return to the Board with the restrictions rather than provide a list of restrictions and bring back the exemption.

Dr. Parker expressed the concern that industry should be provided appropriate notice in order to be given the opportunity to provide input. He agreed with the suggestion to continue the hearing to allow staff to make recommendations to the Board concerning what restrictions should be included in the proposed exemption.

Dr. Lyou commented that he understood Board members' concerns and recognized the lack of notice that should have been provided to industry regarding the narrowing of the exemption. He also noted the complexity and

problems associated with making decisions with regard to toxicity issues and possible health effects. He thought it would be helpful to have the input of a toxicologist in order to help the Board make informed decisions on these matters. He indicated he was amenable to staff's original proposal, but because of the notice issue, preferred an expedited return to the Board for the narrowing of the exemption.

(Supervisor Benoit left at approximately 10:25 a.m., during Board discussion.)

MOVED BY PARKER, SECONDED BY NELSON, AGENDA ITEM 28 APPROVED AS ORIGINALLY RECOMMENDED BY STAFF, ADOPTING RESOLUTION NO. 14-9 CERTIFYING THE NOTICE OF EXEMPTION AND AMENDING RULE 102, **WITHOUT** THE MODIFICATIONS TO THE PROPOSED RULE AND THE RESOLUTION AS STATED ON THE ERRATA SHEET, BY THE FOLLOWING VOTE:

AYES: B. Benoit, Burke, Buscaino, Cacciotti, Gonzales, Lyou, Nelson, Parker, Pulido and Yates.

NOES: Mitchell.

ABSENT: Antonovich and J. Benoit.

**PUBLIC COMMENT PERIOD** – (Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3)

There was no public comment on non-agenda items.

**CLOSED SESSION**

The Board recessed to closed session at 10:35 a.m., pursuant to Government Code sections 54956.9(a) and 54956.9(d)(1) to confer with its counsel regarding pending litigation which has been initiated formally and to which the District is a party, as follows:

- Exide Technologies, Inc. v. SCAQMD, et al., Los Angeles Superior Court Case No. BC146770 (Writ of Mandate);

- People of the State of California, ex rel SCAQMD v. Exide Technologies, Inc., Los Angeles Superior Court Case No. BC533528; United States District Court Case No. CV 14-1169 (Civil Penalties);
- In the Matter of SCAQMD v. Exide Technologies, Inc., SCAQMD Hearing Board Case No. 3151-29 (Order for Abatement);
- Exide Technologies, Inc., Petition for Variance, SCAQMD Hearing Board Case No. 3151-31; and
- In re: Exide Technologies, Inc., U.S. Bankruptcy Court for the District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy case).

Following closed session, General Counsel Kurt Wiese announced that there were no reportable actions taken in closed session.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned by the General Counsel at 12:10 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on May 2, 2014.

Respectfully Submitted,

Rosalinda Diaz  
Acting Senior Deputy Clerk

Date Minutes Approved: \_\_\_\_\_

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Dr. William A. Burke, Chairman

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## ACRONYMS

CARB = California Air Resources Board

EV = Electric Vehicle

FY = Fiscal Year

MSDS = Material Safety Data Sheet

MSRC = Mobile Source (Air Pollution Reduction) Review Committee

NOx = Oxides of Nitrogen

NOV = Notices of Violation

OEHHA = Office of Environmental Health Hazard Assessment

PAR = Proposed Amended Rule

PM<sub>2.5</sub> = Particulate Matter ≤ 2.5 microns

RFP = Request for Proposals

RFQ = Request for Quotations

U.S. EPA = United States Environmental Protection Agency

VOC = Volatile Organic Compounds