

BOARD MEETING DATE: March 4, 2016

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the February 5, 2016 meeting.

RECOMMENDED ACTION:

Approve Minutes of the February 5, 2016 Board Meeting.

Sandra McDaniel,
Clerk of the Boards

SM:dg

FRIDAY, FEBRUARY 5, 2016

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

Council Member Ben Benoit, Vice Chairman
Cities of Riverside County

Mayor Michael D. Antonovich
County of Los Angeles

Supervisor John J. Benoit
County of Riverside

Council Member Joe Buscaino
City of Los Angeles

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

Dr. Joseph K. Lyou
Governor's Appointee

Mayor Larry McCallon
Cities of San Bernardino County

Council Member Judith Mitchell (arrived at 9:30 a.m.)
Cities of Los Angeles County – Western Region

Supervisor Shawn Nelson
County of Orange

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

Council Member Dwight Robinson
Cities of Orange County

Supervisor Janice Rutherford
County of San Bernardino

CALL TO ORDER: Chairman Burke called the meeting to order at 9:10 a.m.

- Pledge of Allegiance: Led by Council Member Benoit.
- Opening Comments

Chairman Burke. Announced that he attended the Martin Luther King, Jr. Day of Service Forum in Los Angeles on January 16, 2016, where the keynote speaker was former Mayor of San Francisco, Willie L. Brown, Jr.

- Swearing In of Newly Appointed Board Members Larry McCallon and Dwight Robinson

Chairman Burke administered the oath of office to Mayor Larry McCallon, who was appointed by the San Bernardino County City Selection Committee, for a term ending January 15, 2020; and to Council Member Dwight Robinson, who was appointed by the Orange County City Selection Committee, for a term ending January 15, 2020.

- Swearing in of Chair and Vice Chair for Terms January 2016 – January 2018

Supervisor Antonovich administered the oath of office to Chairman Burke, who was re-elected, for a term ending January 14, 2018.

Supervisor Benoit administered the oath of office to Vice Chairman Ben Benoit, who was elected, for a term ending January 14, 2018.

CONSENT CALENDAR

1. Approve Minutes of January 8, 2016 Board Meeting

Budget/Fiscal Impact

2. Execute Contract to Evaluate Ozone and Secondary Organic Aerosol Formation from Diesel Fuels
3. Execute Contract for Demonstration and Evaluation of Plug-in Electric Vehicle Smart Charging Algorithm at Multiple Electric Grid Scales **E**
4. Renew SCAQMD's Membership in CaFCP for Calendar Year 2016, Provide Office Space for CaFCP, and Receive and File California Fuel Cell Partnership Executive Board Agenda and Updates **E**

5. Execute Contracts Under Diesel Emissions Reduction Act, Carl Moyer Program, and Rule 2202 Program, and Amend Contract
6. Issue Program Announcements for Locomotives, Ships at Berth and Cargo Handling Equipment Projects Under Proposition 1B-Goods Movement Program
7. Issue RFP for Technical Assistance for Advanced, Low- and Zero-Emissions Mobile and Stationary Source Technologies and Implementation of Incentive Programs
8. Approve Reallocation of Funds Between Existing Programs Previously Approved for Implementation of U.S. EPA's Targeted Air Shed Grant and Modify Contract with Mean Green Products, LLC
9. Approve Discontinuation of Parking Cash-Out Program as Required Component Under Rule 2202 – On-Road Motor Vehicle Mitigation Options, Employee Commute Reduction Program
10. Issue RFP for Deferred Compensation Plan Consultant Services
11. Amend Contracts to Provide Short- and Long-Term Systems Development, Maintenance and Support Services
12. Establish List of Prequalified Vendors to Provide Computer, Network, Printer, Hardware and Software
13. Approve Charter for SCAQMD's Environmental Justice Community Partnership Advisory Council

Action Item/No Fiscal Impact

14. Special Meeting of Brain & Lung Tumor and Air Pollution Foundation

Items 15 through 20 - Information Only/Receive and File

15. Legislative and Public Affairs Report
16. Hearing Board Report
17. Civil Filings and Civil Penalties Report

18. Lead Agency Projects and Environmental Documents Received by SCAQMD
19. Rule and Control Measure Forecast
20. Status Report on Major Projects for Information Management Scheduled to Start During Last Six Months of FY 2015-16

Dr. Lyou announced his abstention on Item No. 3 because Southern California Edison is a potential source of income to him.

Councilman Robinson announced his abstention on Item No. 1 as he was not present at the January 8, 2016 Board meeting.

Agenda Items 5 and 13 were withheld for discussion.

21. Items Deferred from Consent Calendar

5. Execute Contracts Under Diesel Emissions Reduction Act, Carl Moyer Program, and Rule 2202 Program, and Amend Contract

Councilman Cacciotti questioned what fuel source the diesel-powered marine vessels are being re-powered to.

Fred Minassian, Assistant DEO/Technology Advancement, explained that the vessels are being repowered to utilize the cleanest available diesel technology.

13. Approve Charter for SCAQMD's Environmental Justice Community Partnership Advisory Council

Supervisor Rutherford asked for clarification regarding the difference between the Environmental Justice Advisory Group and the proposed Environmental Justice Community Partnership Advisory Council and what the duties of the newly establish Advisory Council would be.

Lisha Smith, DEO/Legislative and Public Affairs, replied that the newly established Council will be responsible for a specific set of outreach efforts, rather than a broader range of matters that the EJAG addresses.

MOVED BY CACCIOTTI, SECONDED BY
J. BENOIT, AGENDA ITEMS 1 THROUGH 20,
APPROVED AS RECOMMENDED, BY THE
FOLLOWING VOTE:

AYES: Antonovich, B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Lyou (*except Item #3*), McCallon, Nelson, Parker, Robinson (*except Item #1*) and Rutherford.

NOES: None.

ABSTAIN: Lyou (*Item #3 only*) and Robinson (*Item #1 only*).

ABSENT: Mitchell.

BOARD CALENDAR

- 22. Administrative Committee
- 23. Legislative Committee
- 24. Mobile Source Committee
- 25. Stationary Source Committee
- 26. Special Stationary Source Committee
- 27. Technology Committee
- 28. California Air Resources Board Monthly Report
- 29. Status Report on Regulation XIII – New Source Review

MOVED BY LYOU, SECONDED BY B. BENOIT, AGENDA ITEMS 22 THROUGH 29, APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Antonovich, B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Lyou, McCallon, Nelson, Parker, Robinson and Rutherford.

NOES: None.

ABSENT: Mitchell.

(Council Member Mitchell arrived at 9:30 a.m.)

PUBLIC HEARING

30. Amend Rule 1113 – Architectural Coatings (*Continued from January 8, 2016 meeting*)

Dr. Philip Fine, DEO/Planning and Rules, gave the staff presentation, and noted an errata sheet containing an addition to the resolution language had been distributed to Board Members and made available to the public.

In response to Dr. Parker's inquiry regarding the applicability of the rule, Dr. Fine explained that the rule pertains to products sold and applied within the Basin.

Supervisor Nelson questioned why the implementation date for the phase out for the small container exemption is a concern when the region is already exceeding VOC emission goals that were previously set. He also asked why the District has not performed independent testing on the rust preventative products as the industry is providing differing evidence on which test method is most reliable.

Dr. Wallerstein commented that while the record provides some latitude in the selection of a compliance date, it is prudent in this case to adopt the earliest possible date in order to meet other state and federal standards. He added that the staff proposal attempts to balance concerns from the industry that they need more time to develop effective waterborne coatings, and comments from the Board that those businesses who innovate to meet or exceed standards ahead of schedule should be rewarded.

Dr. Lyou confirmed the importance of performing independent testing; asked why reduction goals used in the AQMP and SIP are conservative compared to those used in the rules themselves; and questioned the reason for including multiple potential test methods in the rule, while requiring industry to meet certain measurements to demonstrate compliance.

Dr. Wallerstein replied that the numbers used in the AQMP are estimates based on information available at the time and that as more detailed analysis is performed during rule developments those values may change.

Dr. Fine commented regarding the test methods that the ASTM Method and Method 313 both have a high degree of certainty and provide similar results, so the rule proves flexibility in that regard.

Supervisor Benoit noted that it seems reasonable to provide manufacturers with additional time for the research and development of the best possible water-based products.

Councilwoman Mitchell questioned why additional time is needed when some manufacturers have already successfully developed water-based coatings.

The public hearing was opened and the following individuals addressed the Board on Agenda Item 30.

MEGAN GAUGHAN, Rust-Oleum

Urged the Board to approve an amendment that provides an additional two years prior to the elimination of the small container exemption for rust preventative coatings, noting that the additional time would be used to develop water-based coatings that would match the performance of current coatings.

ROBERT WENDOLL, Dunn Edwards Corporation

Stated that Dunn Edwards would be adversely affected as a result of the proposed amendments and would have to shut down its Los Angeles facility.

DOUG RAYMOND, Raymond Regulatory Resources

Expressed concern with the language in the rule that prohibits advertisement or display of zinc-rich primers which seems to not have any bearing on the emissions of these products.

CURTIS COLEMAN, Lyondell Chemical Company

CHELSEA RITCHIE, Roof Coating Manufacturers Association (RCMA)

Expressed support for staff's recommendation that the exemption for tertiary butyl acetate (tBAC) remain in the rule until a final determination is made by OEHHA regarding whether or not tBAC is a human carcinogen; and RCMA expressed support for developing and implementing test Method 313.

DR. JIM STEWART, Sierra Club

Urged the Board to protect public health without delay by amending the rule as proposed.

JOHN LONG, Vista Paint

Explained that Vista has utilized a water-based rust preventative for over five years; and urged the Board to consider an immediate elimination of oil-based rust preventatives with a two year sell-through of current inventory.

KATY WOLF, Institute for Research and Technical Assistance (IRTA)

Expressed concern that OEHHA has recently re-evaluated the toxicity of tBAC and asked the Board to remove the exemption from the rule immediately.

DAVID DARLING, American Coating Association (ACA)

Noted support for the tBAC exemption to remain in the rule until OEHHA's determination is made; explained that in his written comments and previous comments made during Stationary Source Committee meetings, he raised of concern with how the elimination of the small container exemption will greatly impact small subsets of coating applications including historical preservation, tub and tile refinishing, and door trim and cabinet coatings. He added his support for

Doug Raymond's comments regarding zinc-rich primers and agreed with Dr. Lyou on the test method issues and enforcement. (Submitted Written Comments)

Written Comments Submitted by:
Howard Berman, E4 Strategic Solutions

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

Councilman Robinson questioned why there appears to be an increased cost associated with water-based products compared to oil-based products; and asked what competitive advantage or disadvantage is present for the company that already produces water-based products.

Naveen Berry, Planning and Rules Manager, explained that water-based formulations are more expensive as they involve newer technology that requires extensive research and development. He added that companies that already sell water-based products have spent money on reformulation and could be at a competitive disadvantage to those companies that are still profiting from oil-based products. He explained some details in the technology assessment that was completed in the past for rust preventative products.

SUPERVISOR BENOIT MOVED APPROVAL
OF THE STAFF PROPOSAL WITH AN
AMENDED COMPLIANCE DEADLINE OF
JANUARY 2021. THE MOTION WAS
SECONDED BY SUPERVISOR NELSON.

Dr. Lyou expressed concern with adopting rule language that will become troublesome once OEHHA makes a determination about the risk of tBAc. He asked that the issue of multiple test methods be brought to the Stationary Source Committee to determine if compliance through these test methods is unnecessarily burdensome on industry.

Councilman Benoit requested elaboration on the other categories of coatings mentioned by industry.

Dr. Fine explained products exist in the other categories that meet the limits and the small container exemption is not necessary. If products do not exist, categories are carved out to meet those needs. Some subcategories cannot be easily carved out because of enforcement issues regarding intended purpose of the product. He further explained that the U.S. EPA will not give credits for going beyond emissions targets if they are not enforceable.

Councilwoman Mitchell raised a concern with the fairness of providing those manufacturers that have not moved more aggressively to find a solution to water-based rust preventative products additional time, when other companies have worked towards compliance with the rule.

COUNCILWOMAN MITCHELL MADE A SUBSTITUTE MOTION TO APPROVE THE STAFF RECOMMENDATION WITH AN AMENDED COMPLIANCE DEADLINE OF JANUARY 2020. THE MOTION WAS SECONDED BY COUNCILMAN CACCIOTTI.

Councilman Robinson stated that it appears that additional time is necessary to develop the best water-based products possible to be put into the market.

Dr. Parker asked about the timeframes on receiving credits for emissions.

Dr. Fine explained that the AQMP includes commitments for emissions reductions and a timeline to achieve them. Staff is recommending some amendments that prevent emissions from increasing in an enforceable manner.

Councilman Cacciotti suggested an amendment to Councilwoman Mitchell's motion directing staff to provide a report to the Board in January 2019 regarding industry's efforts to reformulate to water-based coatings.

Councilwoman Mitchell agreed to the amendment and the Board took the following action:

MOVED BY MITCHELL, SECONDED BY CACCIOTTI, AGENDA ITEM NO. 30 APPROVED AS RECOMMENDED BY STAFF, ADOPTING RESOLUTION NO. 16-2 CERTIFYING THE FINAL ENVIRONMENTAL ASSESSMENT FOR PROPOSED AMENDED RULE 1113, AND AMENDING RULE 1113, WITH THE FOLLOWING MODIFICATIONS: THE FINAL COMPLIANCE DATE SHALL BE JANUARY 1, 2020, STAFF IS DIRECTED TO PROVIDE A REPORT TO THE BOARD IN JANUARY 2019 ON THE STATUS OF THE DEVELOPMENT OF WATER-BASED COATINGS, AND THE RESOLUTION LANGUAGE BE AMENDED AS NOTED ON THE ERRATA SHEET, BY THE FOLLOWING VOTE:

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

NOES: Antonovich, Burke, McCallon, Nelson, Robinson and Rutherford.

ABSENT: None.

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Supervisor Antonovich spoke about the impacts of a natural gas leak at the Aliso Canyon natural gas storage facility; commented on the complicated nature of the various impacts of said leak; and requested that the Board be kept up-to-date on the status of the leak and its resulting effects.

Dr. Wallerstein noted that since the matter has progressed to litigation it is now included in the Board's closed session agenda. He added that the matter has been handled by staff pursuant to past practice with enforcement matters; and explained that staff has been in constant communication with other agencies regarding the matter.

Chairman Burke commented on the unparalleled nature of this matter and the need to keep the Board informed of the status.

Supervisor Benoit suggested the addition of a status update on each month's meeting agenda until this issue is completely resolved.

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31. Affirm Amendment to Regulation XX to Allow Use of Certified Emission Levels for Certain Rule 219 Exempt Equipment and Amend Definition of "Standard Gas Conditions" to Conform to Existing Practice

Jill Whynot, Assistant DEO/Planning and Rules, gave the staff presentation, and noted a sheet that was provided to the Board and the public containing the resolution language.

The public hearing was opened and the following individuals addressed the Board on Agenda Item 31.

HARVEY EDER, Public Solar Power Coalition

Noted that solar technologies have been shown to be cost-effective and a proven technology in regards to RECLAIM facilities.

DR. JIM STEWART, Sierra Club

Commented on a letter from CARB which admonished the amendments passed by the Board in December; and urged the Board to uphold regulations that protect public health and not industry interests.

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

MOVED BY CACCIOTTI, SECONDED BY B. BENOIT, AGENDA ITEM NO. 31 APPROVED AS RECOMMENDED BY STAFF, ADOPTING RESOLUTION NO. 16-3 AFFIRMING AND AMENDING PROVISIONS OF REGULATION XX AND FINDING THAT THOSE ARE EXEMPT FROM CEQA, BY THE FOLLOWING VOTE:

AYES: Antonovich, B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford.

NOES: None.

ABSENT: None.

32. Approve Proposed Guidelines for Disbursement and Tracking of Funds Received Pursuant to Rule 1304.1 – Electrical Generating Facility Fee for Use of Offset Exemption

Dr. Wallerstein requested that the Board continue the public hearing on this item to the March 4, 2016 Board meeting.

MOVED BY CACCIOTTI, SECONDED BY J. BENOIT, AND UNANIMOUSLY CARRIED THE PUBLIC HEARING TO APPROVE PROPOSED GUIDELINES FOR DISBURSEMENT AND TRACKING OF FUNDS RECEIVED PURSUANT TO RULE 1304.1 WAS CONTINUED TO THE MARCH 4, 2016 BOARD MEETING.

OTHER BUSINESS

33. Approve Amendments to Labor Contracts with Teamsters Local 911 and South Coast Professional Employees Association and Approve Same Amendment for Non-Represented Employees

Bill Johnson, Assistant DEO/Administrative and Human Resources, gave a brief overview of the background for Item 33.

MOVED BY CACCIOTTI, SECONDED BY B. BENOIT, AGENDA ITEM 33. APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Antonovich, B. Benoit, J. Benoit, Burke, Buscaino, Cacciotti, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford.

NOES: None.

ABSENT: None.

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

Harvey Eder, Public Solar Power Coalition, spoke about the dangers of fossil fuel usage and expressed support for conversion to solar powered technologies.

CLOSED SESSION

The Board recessed to closed session at 11:40 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:

- People of the State of California, ex rel SCAQMD v. Exide Technologies, Inc., Los Angeles Superior Court Case No. BC533528;
- In re: Exide Technologies, Inc., U.S. Bankruptcy Court for the District of Delaware Case No. 13-11482 (KJC) (Bankruptcy case);
- People of the State of California, ex rel SCAQMD v. Southern California Gas Company, Los Angeles Superior Court Case No. BC608322; and
- In the Matter of SCAQMD v. Southern California Gas Company, Aliso Canyon Storage Facility, SCAQMD Hearing Board Case No. 137-76 (Order for Abatement).

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 Kurt Wiese 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 February 5, 2016.

Respectfully Submitted,

Denise Garzaro
Senior Deputy Clerk

Date Minutes Approved: _____

Dr. William A. Burke, Chairman

ACRONYMS

AQMP = Air Quality Management Plan
BARCT= Best Available Retrofit Control Technology
CaFCP = California Fuel Cell Partnership
CARB = California Air Resources Board
CEQA = California Environmental Quality Act
EV = Electric Vehicle
FY = Fiscal Year
GHG = Greenhouse Gas
NOx = Oxides of Nitrogen
OEHHA = Office of Environmental Health Hazard Assessment
RFP = Request for Proposals
SIP = State Implementation Plan
U.S. EPA = United States Environmental Protection Agency
VOC = Volatile Organic Compound