

BOARD MEETING DATE: September 1, 2017

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the July 7, 2017 meeting.

RECOMMENDED ACTION:

Approve Minutes of the July 7, 2017 Board Meeting.

Denise Garzaro  
Clerk of the Boards

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**FRIDAY, JULY 7, 2017**

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 Pro Tem Ben Benoit, Vice Chairman  
Cities of Riverside County

Council Member Joe Buscaino  
City of Los Angeles

Supervisor Marion Ashley  
County of Riverside

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

Supervisor Sheila Kuehl  
County of Los Angeles

Dr. Joseph K. Lyou  
Governor's Appointee

Mayor Pro Tem Larry McCallon  
Cities of San Bernardino County

Council Member Judith Mitchell  
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 9:00 a.m.

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

Mayor Cacciotti reported that he and several student interns traveled to today's meeting by bus; and noted the importance of promoting more streamlined public transit options. He invited Dan Mabe to demonstrate a battery-operated leaf blower that is similar to the model available through the District's leaf blower exchange program.

Mr. Mabe, American Green Zone Alliance, demonstrated a battery-operated leaf blower and thanked the Board for promoting programs that encourage the use of new technology in the landscape maintenance industry.

Supervisor Nelson expressed concern about electrification efforts and the rising costs of electricity.

Mayor Cacciotti reported that the City of South Pasadena is working with Los Angeles Community Choice Energy in an effort to reduce electricity costs for its residents. He added that the city has also conducted an energy audit and is considering solar energy for many city facilities.

Supervisor Kuehl commented that the County of Los Angeles formed a Joint Powers Authority to create a community choice aggregation program to purchase electricity on the wholesale market and provide it to residents and businesses at competitive rates.

Dr. Lyou reported that on June 12, 2017 he attended a press conference in Los Angeles regarding the Ports Clean Air Action Plan. Council Member Buscaino gave a speech about the actions taken to clean up the ports. On June 21, 2017 he joined SCAQMD staff on a tour of the Long Beach container terminal, where great progress has been made to convert operations to cleaner technologies. He encouraged his colleagues and staff to tour the facility.

Chairman Burke announced that he traveled to Washington, D.C. in June with Dr. Parker and SCAQMD staff.

Dr. Parker reported that on that visit he had several productive meetings with Senators and legislative staff about a proposed demonstration project for low NOx emission trucks and funding options.

Chairman Burke acknowledged the presence of the 2017 SCAQMD student interns and thanked them, in advance, for their efforts.

## **CONSENT CALENDAR**

1. Approve Minutes of June 2, 2017 Board Meeting
2. Set Public Hearing September 1, 2017 to Consider Adoption of and/or Amendments to SCAQMD Rules and Regulations

Determine that Proposed Amendments to Rule 1401 – New Source Review of Toxic Air Contaminants Are Exempt from CEQA and Amend Rule 1401

### **Budget/Fiscal Impact**

3. Execute Contract to Develop and Demonstrate Battery Electric Switcher Locomotive
4. Recognize and Transfer Funds, Execute Agreements for Installation of Air Filtration Systems and Reimburse General Fund for Administrative Costs
5. Recognize Revenue and Amend Award to Develop and Demonstrate Fuel Cell Heavy-Duty Truck
6. Recognize Revenue and Transfer and Appropriate Funds for Air Monitoring and Emergency Response Programs, and Issue Solicitations and Purchase Orders for Air Monitoring and Laboratory Equipment and Vehicles
7. Approve Cargo Handling Equipment Projects Under Proposition 1B-Goods Movement Program
8. Recognize Revenue, Approve Awards for School Bus Replacements and Reimburse General Fund for Administrative Costs
9. Transfer Funds, Appropriate Funding, Execute Purchase Orders, Execute Contract and Authorize Release of RFQs for Fifth Multiple Air Toxics Exposure Study
10. Issue Request for Information to Evaluate Optical Remote Sensing Instruments to Evaluate Emissions from Refinery Flares
11. Amend Contracts to Provide Short- and Long-Term Systems Development, Maintenance and Support Services

12. Amend Meal Reimbursements Provisions of SCAQMD's Administrative Code
13. Adopt Resolution and Amend Administrative Code for Hearing Board Member Compensation
14. Amend Contract for Targeted Outreach for "The Right to Breathe" Video Utilizing YouTube Videos and Banner Ads
15. Establish Lists of Prequalified Counsel to Represent and Advise SCAQMD on Legal Matters Related to Environmental Law, and to Represent and Advise SCAQMD Hearing Board
16. Approve Contract Award and Approve Fund Transfer for Miscellaneous Costs in FY 2017-18 as Approved by MSRC

**Items 17 through 22 - Information Only/Receive and File**

17. Legislative, Public Affairs and Media Report
18. Hearing Board Report
19. Civil Filings and Civil Penalties Report
20. Lead Agency Projects and Environmental Documents Received by SCAQMD
21. Rule and Control Measure Forecast
22. Status Report on Major Ongoing and Upcoming Projects for Information Management

Dr. Lyou announced his abstention on Item No. 4 because IQAir North America is a potential source of income to him; on Item No. 5 because Port of Long Beach is a potential source of income to him; and Item Nos. 9 and 34 because Sonoma Technology is a potential source of income to him; and Item No. 14 because of a financial interest in Google.

Supervisor Kuehl and Mayor Pro Tem Benoit announced their abstentions on Item No. 14 because of a financial interest in Google.

Supervisor Ashley announced his abstention on Item No. 34 because of a financial interest in Exxon.

Council Member Mitchell noted that she is a board member of the CARB which is involved with Item No. 8.

Mayor Cacciotti announced his abstention on Item 4 because of a potential conflict due to his work in the Attorney General's office.

Agenda Item Numbers 1, 3, 11, 12, 13 and 14 were pulled for comment and discussion.

23. Items Deferred from Consent Calendar

1. Approve Minutes of June 2, 2017 Board Meeting

11. Amend Contracts to Provide Short- and Long-Term Systems Development, Maintenance and Support Services

Eric Preven complimented the Board on the process of extending and amending contracts and the RFP process.

12. Amend Meal Reimbursements Provisions of SCAQMD's Administrative Code

Mr. Preven stated that bringing the meal reimbursement provisions in line with the General Services Administration was reasonable.

14. Amend Contract for Targeted Outreach for "The Right to Breathe" Video Utilizing YouTube Videos and Banner Ads

Dr. Lyou left the room during discussion of Item No. 14.

Mr. Preven noted that YouTube is a great tool for public outreach.

MOVED BY BUSCAINO, SECONDED BY KUEHL,  
AGENDA ITEMS 1, 2, 4 THROUGH 12 AND 14  
THROUGH 22 APPROVED AS RECOMMENDED, BY  
THE FOLLOWING VOTE:

AYES: Ashley, Benoit (*except Item #14*), Burke,  
Buscaino, Cacciotti (*except Item #4*),  
Kuehl (*except Item #14*), Dr. Lyou  
(*except Items # 4, #5, #9 and #14*),  
McCallon, Mitchell, Nelson, Parker,  
Robinson and Rutherford

NOES: None

ABSTAIN: Benoit (*Item #14 only*), Cacciotti (*Item #4 only*), Kuehl (*Item #14 only*) and Lyou (*Items #4, #5, #9 and #14 only*)

ABSENT: None

3. Execute Contract to Develop and Demonstrate Battery Electric Switcher Locomotive

Mayor Cacciotti spoke in favor of the proposed project and asked staff to provide an overview of the program.

Dr. Matt Miyasato, DEO/Science and Technology Advancement, explained that Real Propulsion Systems has identified a way to retrofit a switcher locomotive to battery-electric technology and U.S. EPA is co-funding the project. He added that zero- and near-zero emission locomotive technologies will result in significant NOx emission reductions.

MOVED BY CACCIOTTI, SECONDED BY LYOU,  
AGENDA ITEM 3 APPROVED AS RECOMMENDED,  
BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino,  
Cacciotti, Kuehl, Lyou, McCallon,  
Mitchell, Nelson, Parker, Robinson and  
Rutherford

NOES: None

ABSENT: None

13. Adopt Resolution and Amend Administrative Code for Hearing Board Member Compensation

Mr. Preven expressed support for the pay increases for Hearing Board members which will hopefully aid in retention of qualified candidates.

Mayor Pro Tem McCallon questioned the purpose of providing an increase in compensation to the medical Hearing Board member above and beyond the compensation of the other members.

Chairman Burke explained that the increase is necessary in order to recruit and retain qualified physician candidates for the Hearing Board. Further, the higher compensation for the medical member of the board is consistent with the CARB model.

MOVED BY MITCHELL, SECONDED BY KUEHL,  
AGENDA ITEM 13 APPROVED, ADOPTING  
RESOLUTION NO. 17-10 MODIFYING THE  
COMPENSATION FOR MEMBERS AND  
ALTERNATE MEMBERS OF THE SCAQMD  
HEARING BOARD, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino,  
Cacciotti, Kuehl, Lyou, McCallon,  
Mitchell, Nelson, Parker, Robinson and  
Rutherford

NOES: None

ABSENT: None

**BOARD CALENDAR**

24. Administrative Committee
25. Special Administrative Committee
26. Investment Oversight Committee
27. Legislative Committee
28. Mobile Source Committee
29. Stationary Source Committee
30. Technology Committee
31. Mobile Source Air Pollution Reduction Review Committee
32. California Air Resources Board Monthly Report

33. California Fuel Cell Partnership Executive Board Meeting Agenda and Quarterly Updates

Agenda Item No. 27 was withheld for discussion.

MOVED BY LYOU, SECONDED BY BENOIT, AGENDA ITEMS 24 THROUGH 26, AND 28 THROUGH 33, APPROVED AS RECOMMENDED, RECEIVING AND FILING THE COMMITTEE, MRSC AND CARB REPORTS, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino, Cacciotti, Kuehl, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSENT: None

27. Legislative Committee

Mr. Nastri explained that recent changes to the draft language for the California Greenhouse Gas Cap and Trade Program by the Governor's office and the Legislature prompted staff to prepare an errata sheet containing a change in the previous staff recommendation of Support which was adopted by the Legislative Committee on June 9, 2017. The proposal would require the District to deploy a network of advanced air monitoring systems in areas specified by CARB in an effort to reduce criteria and toxic pollutants in communities with the highest emission burdens. One of the other proposals is having a BARCT requirement for all sources under the Cap and Trade Program that districts would be required to implement by January 1, 2021, with an update required every three years thereafter. This involves a significant undertaking and cost burden for the District and there is no funding provided for any of the programs. Therefore, staff is now recommending that the Board adopt the following position: "The SCAQMD supports the reauthorization of the California Greenhouse Cap and Trade Program beyond the year of 2020, if the state provides significant and sustained funding for any mandates imposed on air districts in connection with reauthorization, including incentive funding to reduce mobile source emissions if reductions of criteria and toxic air pollutants is required."

Supervisor Kuehl asked if there is a report available regarding Cap and Trade funds that the District has already received, and requested clarification on the language in the proposed recommendation that the funding be significant and sustained.

Dr. Miyasato replied that two large projects funded through Cap and Trade were the Replace Your Ride Program and a drayage truck replacement program.

Mr. Nastri stressed the importance of receiving a commitment for funding as the resources required for such an undertaking will be immense.

Council Member Mitchell asked if there was a concern about additional burdens on air districts for both mobile and stationary sources.

Mr. Nastri responded affirmatively and asked Dr. Fine to speak to the resource impacts that will be associated with BARCT assessments.

Dr. Fine replied that the proposed language increases the role of CARB significantly when it comes to criteria pollutant emissions and toxic emissions from stationary sources, which is a significant change. He added that also under consideration is a requirement to reassess BARCT and BACT on all major sources every three years, which is an enormous task. The BARCT assessment for RECLAIM, which was a small subset of the facilities in the Greenhouse Gas Cap and Trade Program, took three years and was very controversial, therefore, funding for the mandates under this proposed legislation is critical.

MOVED BY MITCHELL, SECONDED BY PARKER, ITEM 27 APPROVED, RECEIVING AND FILING THE LEGISLATIVE COMMITTEE REPORTS AND APPROVING THE FOLLOWING POSITIONS ON LEGISLATION, WITH THE AMENDMENT TO THE COMMITTEE RECOMMENDATION SUPPORTING THE REAUTHORIZATION OF THE CALIFORNIA GREENHOUSE GAS CAP AND TRADE PROGRAM BEYOND THE YEAR 2020, IF THE STATE PROVIDES SIGNIFICANT AND SUSTAINED FUDING FOR ANY MANDATES IMPOSED ON AIR DISTRICTS IN CONNECTION WITH REAUTHORIZATION, INCLUDING INCENTIVE FUNDING TO REDUCE MOBILE SOURCE EMISSIONS IF REDUCTIONS OF CRITERIA AND TOXIC AIR POLLUTANTS IS REQUIRED, BY THE FOLLOWING VOTE:

AYES: Ashley, Burke, Buscaino,  
Cacciotti, Kuehl, Lyou, Mitchell,  
Parker and Rutherford

NOES: Benoit, McCallon, Nelson and Robinson

ABSENT: None

<b>Agenda Item</b>	<b>Recommendation</b>
AB 378 (C. Garcia) Greenhouse Gases, Criteria Air Pollutants, and Toxic Air Contaminants	Work with Author
AB 890 (Medina) Local Land Use Initiatives: Environmental Review	Watch
AB 1073 (E. Garcia) California Clean Truck, Bus, and Off-Road Vehicle and Equipment Technology Program	Support
AB 1647 (Muratsuchi) Petroleum Refineries: Air Monitoring Systems	Work with Author
AB 739 (Chau) State vehicle fleet:	Support Purchases
AB 797 (Irwin) Solar thermal systems	Support
AB 1239 (Holden) Building standards: electric vehicle charging infrastructure	Support
SB 100 (De Leon) California Renewables Portfolio Standard Program: emissions of greenhouse gases	Support
SB 518 (De Leon) Clean Energy Job Creation Program and citizen oversight board	Support
SCAQMD Policy Regarding Reauthorization of California Greenhouse Gas Cap & Trade Program	*See below

\*The SCAQMD supports the reauthorization of the California Greenhouse Cap and Trade Program beyond the year of 2020, if the state provides significant and sustained funding for any mandates imposed on air districts in connection with reauthorization, including incentive funding to reduce mobile source emissions if reductions of criteria and toxic air pollutants is required.

Supervisor Nelson stressed the importance of keeping to a firm meeting schedule and avoiding changes in dates as it can cause scheduling conflicts.

Mr. Nastri commented that dates are rarely changed, but there are times when there is a need to revise a meeting date and an effort is made to accommodate Board Member schedules in those instances.

Dr. Lyou noted that the Board meeting dates have been changed in January, July and September if needed to accommodate holidays.

Mr. Wiese suggested that this topic be added to the agenda for an Administrative Committee meeting for further discussion.

Chairman Burke asked staff to place a discussion of this issue on the next Administrative Committee meeting agenda.

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#### 41. Amend Governing Board Meeting Procedures

Chairman Burke explained that after watching a recent meeting of the Los Angeles County Board of Supervisors and hearing that Board's code of conduct for meetings, he asked staff to review the District's code of conduct to see if updates were warranted. He stressed the importance of receiving public input by various stakeholders and requested that staff assemble a task force to receive input on the proposed changes before the Governing Board consider the item.

Supervisor Kuehl stressed the importance of setting time limits that allow the public to give persuasive testimony and suggested that code of conduct procedures from other entities be reviewed.

Harvey Eder, Solar Power Coalition, expressed support for a limit of two minutes for public testimony with the potential to increase the limit for more involved items.

Florence Gharibian, Del Amo Action Committee, noted that the District has done an excellent job of providing opportunities for the public to participate in meetings, forums and workshops and encouraged the Board to continue to offer meetings in local communities.

Adrian Martinez, EarthJustice, expressed concern about limiting public testimony as the items the Board considers are often complex. He supported seeking additional feedback from stakeholders.

Bill LaMarr, California Small Business Alliance  
David Rothbart, Southern California Alliance of Publicly Owned Treatment Works

Noted their support for the Board addressing the restoration of decorum and respect to public meetings and expressed concern about limiting public testimony to 90 seconds, especially regarding matters of a complex and technical nature.

Eric Preven expressed concern with limiting testimony to less than 3 minutes because of the difficulty it presents for providing testimony on difficult issues.

Chairman Burke directed staff to put together a task force of stakeholders to develop recommendations for potential changes to the Governing Board Procedures.

Mr. Nastri confirmed that staff would report on those recommendations at the September 1, 2017 Board meeting.

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**Staff Presentation/Board Discussion**

34. Execute Contracts for Supplemental Environmental Projects in City of Torrance from ExxonMobil Settlement Agreement Fund

As a result of their previously noted abstentions, Dr. Lyou and Supervisor Ashley left the room during discussion of Item No. 34.

Tracy Goss, Planning and Rules Manager, gave the staff presentation on Item 34.

Chairman Burke noted the extensive process that has taken place to select the projects that will be implemented with the settlement funds. He inquired about concerns raised by community members regarding the City's ability to disseminate timely notifications.

Dr. Fine responded that the staff recommendation proposes integrating the monitoring element provided by Sonoma Technology with the community alert system in place with the City of Torrance. This will provide the best use of funds as the City already has the infrastructure for emergency response in place and that will be enhanced with the monitoring element from Sonoma Technology.

MOVED BY BENOIT, SECONDED BY ROBINSON,  
AGENDA ITEM 34 APPROVED AS RECOMMENDED,  
BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Buscaino, Cacciotti, Kuehl, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSTAIN: Ashley and Lyou

ABSENT: None

## **PUBLIC HEARINGS**

35. Approve Supplemental RACM/RACT Analysis for 2006 24-Hour PM2.5 and 2008 8-Hour Ozone Standards

Michael Krause, Planning and Rules Manager, gave the staff presentation on Item 35.

The public hearing was opened; and the following individual addressed the Board on Item 35.

Harvey Eder, Public Solar Power Coalition, expressed the need for solar energy to be evaluated as Best Available Retrofit Control Technology.

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

MOVED BY NELSON, AND SECONDED BY CACCIOTTI, AGENDA ITEM NO. 35 WAS APPROVED, ADOPTING RESOLUTION NO. 17-11, APPROVING THE SUPPLEMENTAL RACM/RACT ANALYSIS FOR 2006 PM2.5 AND 2008 OZONE STANDARDS FOR THE SOUTH COAST BASIN AND COACHELLA VALLEY AND DIRECTING THE EXECUTIVE OFFICER TO SUBMIT THE SUPPLEMENTAL RACM/RACT ANALYSIS TO CARB FOR INCLUSION INTO THE SIP AND U.S. EPA'S APPROVAL, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino, Cacciotti, Kuehl, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSENT: None

36. **Certify the Final Subsequent Environmental Assessment and Amend Rule 1147 – NOx Reductions from Miscellaneous Sources (Continued from June 2, 2017 meeting by operation of Governing Board Procedures, Administrative Code §30.10)**

Tracy Goss, Planning and Rules Manager, gave the staff presentation on Item 36. He explained that an errata sheet containing amendments to the Resolution and Final Subsequent Environmental Assessment was provided to the Board Members and copies were made available to the public.

Council Member Mitchell introduced three motions to amend the staff proposal. The amendments include extending the period of compliance for burners with emissions less than 1 pound per day from 30 to 35 years, promoting outreach to burner manufactures to encourage development of low NOx burners and make sure they are aware of SCAQMD funding available for this purpose, and changing the term warranty to emission certification.

Dr. Lyou inquired what the potential impact, in terms of emissions or legal requirements, would be with the proposed change in language from “performance warranties” to “emission certifications”.

Mr. Goss replied that the change does not have an effect on emissions as the language change simply provides clarification. He added that U.S. EPA has reviewed and approved the language change.

The public hearing was opened, and the following individuals addressed the Board on Item 36.

Kelly Willmott, AMVAC Chemical Corporation, expressed support for the proposed amendments.

Bill LaMarr, California Small Business Alliance, thanked staff for their commitment to amending the rule in order to make it less burdensome on small businesses. He urged staff to continue to explore methods to reduce the costs for businesses to demonstrate compliance with the rule.

Gerry Enders, Autosquare Collision Center, stated that he continues to have difficulties with the burner at his facility and while the manufacturer has provided a replacement compliant burner, the District will not allow it to be installed without an additional fee.

Dr. Laki Tisopoulos, DEO/Engineering and Permitting, explained that Mr. Enders’ permit application had been received the week prior to the meeting and staff is expediting the processing of the application and permit amendments.

Anthony Endres, Furnace Dynamics, explained that he has been working with staff on this rule since 2008 and expressed concern about the 30 year retrofit requirement for businesses who are small emitters. He urged the Board to consider a modified verification process using portable analyzers to quantify emissions as this provides for a less costly option than source testing for small businesses. He expressed his willingness to continue to work with staff to identify alternatives.

Brian Edison, Autosquare Collision Center, expressed support for the current proposal, although he is concerned with the continued issues with temperature on low NOx burners that makes the equipment unusable. He urged the Board and staff to thoroughly research new technology options before requiring businesses make large investments in new equipment.

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

Council Member Mitchell directed staff to continue to work with the regulated community on this rule and the costs associated with it.

COUNCILMEMBER MITCHELL MOVED TO DIRECT STAFF TO CONDUCT OUTREACH TO BURNER MANUFACTURERS, INCLUDING MANUFACTURERS OF SPRAY BOOTH HEATERS, REGARDING AN EXISTING PROGRAM FOR AVAILABLE FUNDING THROUGH THE AIR QUALITY INVESTMENT FUND (FUND 27), RULE 1121 EMISSION MITIGATION FEE PROGRAM, TO REIMBURSE COMPANIES THAT SEEK TO CERTIFY HEATING SYSTEMS FOR RULE 1147 COMPLIANCE AND REPORT TO THE STATIONARY SOURCE COMMITTEE BY ITS DECEMBER 2017 MEETING ON THE STATUS OF OUTREACH AND THE USE OF THE FUNDS; AND ADOPT RESOLUTION NO. 17-12, CERTIFYING THE FINAL SUBSEQUENT ENVIRONMENTAL ASSESSMENT FOR PROPOSED AMENDED RULE 1147 – NOx REDUCTIONS FROM MISCELLANEOUS SOURCES AND AMENDING RULE 1147, WITH THE AMENDMENTS TO THE RESOLUTION, ENVIRONMENTAL ASSESSMENT, AND PAR 1147 AS STATED IN THE ERRATA SHEET AND SET FORTH BELOW. THE MOTION WAS SECONDED BY SUPERVISOR KUEHL AND CARRIED BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino,  
Cacciotti, Kuehl, Lyou, McCallon,  
Mitchell, Nelson, Parker, Robinson and  
Rutherford

NOES: None

ABSENT: None

**Amend language in Resolution as follows:**

**Attachment 1 to Resolution (Attachment E), Page 2**

~~However, since PAR 1147 contains adjustments to compliance dates for certain types of equipment and alternatives to the project that are either the 'no project' alternative, or different adjustments to the compliance dates than what is proposed in PAR 1147 (see Chapter 5 of the Final SEA), the analysis in the Final SEA concluded that there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NOx emissions to less than significant levels.~~

**Attachment 1 to Resolution (Attachment E), Page 4**

~~However, since PAR 1147 contains adjustments to compliance dates for certain types of equipment and alternatives to the project that are either the 'no project' alternative, or different adjustments to the compliance dates than what is proposed in PAR 1147, there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NOx emissions to less than significant levels.~~

**Amend language in Final Subsequent Environmental Assessment as follows:**

**Attachment H – Final Subsequent Environmental Assessment, Page 4-8**

~~However, since PAR 1147 contains adjustments to compliance dates for certain types of equipment and alternatives to the project that are either the 'no project' alternative, or different adjustments to the compliance dates than what is proposed in PAR 1147 (see Chapter 5), there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for NOx emissions to less than significant levels.~~

The current version of Rule 1147 includes NOx emission limits and corresponding compliance dates for certain types of equipment. The Technology Assessment has found these to be unattainable/unachievable due to a lack of availability of compliant technology. As such, PAR 1147 provides relief for these certain types of equipment and would result in significant levels of NOx emission reductions temporarily foregone, a portion of which would be permanently foregone. While alternatives to PAR 1147 were considered (see Chapter 5), none of the alternatives would provide the required relief. Without available compliant technology for the affected equipment, the originally projected NOx emission reductions cannot be achieved and there are no mitigation measures available that would eliminate or reduce the significant NOx emissions foregone to less than significant levels.

**Add provisions to Proposed Amended Rule 1147 as follows:**

Modify the age requirement for compliance in PAR 1147 for units with less than one pound per day of NOx emissions from 30 years to 35 years in all PAR 1147 provisions: Requirement clause (c)(1)(A)(iii) and paragraph (c)(15), and Exemption paragraphs (g)(4), (g)(6), (g)(10), and (g)(11).

Add option for monitoring of 35 year or older units with less than 1 pound/day emissions as alternative to compliance with emission limit by adding new paragraphs (c)(16) and (c)(17).

(c)....

(16) Notwithstanding the requirements of paragraphs (c)(1) and (c)(10), an owner or operator of any in-use unit 35 years of age or older may continue operating that unit provided:

(A) NOx emissions are less than 1 pound per day as demonstrated through a biennial emissions test conducted pursuant to paragraphs (d)(1) through (d)(10) and recordkeeping with a calibrated non-resettable fuel or time meter as specified in the unit's SCAQMD Permit to Operate; and

(B) The biennial emissions test is conducted no later than 180 days before the in-use unit becomes 35 years of age for the first demonstration and no later than 18 months after completion of the previous biennial emissions test for any subsequent demonstrations.

(17) An owner or operator of a unit that fails to continuously demonstrate emissions less than one pound per day pursuant to paragraph (c)(16) shall demonstrate compliance with the applicable NOx emission limit in Table 1 through compliance with the requirements of paragraphs (d)(1) through (d)(10) no later than 1 year from the date the owner or operator fails to demonstrate unit emissions are less than one pound per day.

Change the term “performance warranties” to “emission certifications” and the word “warrants” to “guarantees” in proposed new paragraph (d)(11).

37. Certify Final Environmental Assessment and Adopt Rule 1466 — Control of Particulate Emissions from Soils with Toxic Air Contaminants

Susan Nakamura, Assistant DEO/Planning, Rule Development and Area Sources, gave the staff presentation on Item 37.

Dr. Lyou introduced two motions to amend the rule to provide added protections and include adjacent athletic sites at schools and early education centers.

Dr. Parker inquired what triggers the need for soil to be tested.

Ms. Nakamura stated that U.S. EPA, DTSC or Regional or State Water Quality Control Boards would designate the site for clean-up. When earthmoving activities on those sites that have been designated for clean-up begin, the rule requirements would apply. She added that there is also a provision that allows the Executive Officer to identify a site under specific criteria established in the rule.

Mayor Cacciotti inquired about the permit process for sites where asbestos or lead is present.

Mr. Nastri replied that depending on the amount and type of asbestos present, a permit may be required so that proper remediation measures can be taken. This particular rule relates to toxic soil clean-up efforts which will usually be identified by U.S. EPA, DTSC or Regional or State Water Quality Control Boards.

Councilman Robinson expressed concern about the practicality of the time restrictions for earth-moving equipment near adjacent school sites where athletic events typically occur.

Dr. Lyou stated that this issue had been discussed in Stationary Source Committee and there is a process where an exemption can be obtained under the proper conditions.

Ms. Nakamura explained that if an exemption is requested, multiple factors are taken into consideration including the health risks, the surrounding community and receptor locations.

The public hearing was opened, and the following individuals addressed the Board on Item 37.

David Rothbart, Southern California Alliance of Publicly Owned Treatment Works, expressed concern with projects that need trenching for sewage and the impact that this rule might have on that industry. He noted that it is his understanding that linear trenching activities would be exempt but the rule language, as written, seems to limit those activities to 500 cubic yards which would not be sufficient for most projects.

Ms. Nakamura responded that the rule includes an exemption for linear trenching for sewer projects.

Curtis Coleman, Southern California Air Quality Alliance, spoke in favor of the rule and thanked staff for their collaboration throughout the rule development process.

Florence Gharibian, Del Amo Action Committee, supports the rule, which will assist other regulatory agencies in ensuring that earth-moving activities are done safely and in a manner that protects public health. She added that she supports the revisiting of this rule to add provisions for other toxic chemicals.

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

Written Comments Submitted By:

Robina Suwol, California Safe Schools

Supervisor Kuehl requested further clarification on the exemption language for sewer projects on roadways and earth moving activities.

Ms. Nakamura commented that the language does exempt sewer projects on roadways and earthmoving activities and referenced section k(3) in the rule.

Mr. Nastri suggested amending paragraph k(3) to address the concerns identified by Supervisor Kuehl and to clarify the language by separating roadways and earth-moving activities into two sections, k(3) and k(4). Dr. Lyou expressed support for those revisions.

MOVED BY LYOU, AND SECONDED BY BENOIT, AGENDA ITEM NO. 37 APPROVED, ADOPTING RESOLUTION NO. 17-13, CERTIFYING THE FINAL ENVIRONMENTAL ASSESSMENT FOR PROPOSED RULE 1466 AND ADOPTING RULE 1466— CONTROL OF PARTICULATE EMISSIONS FROM SOILS WITH TOXIC AIR CONTAMINANTS, WITH AMENDMENTS AS SET FORTH BELOW, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino, Cacciotti, Kuehl, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSENT: None

Amend Rule 1466 as follows -

Add definition for adjacent athletic area as (c)(2):

(c)

(2) ADJACENT ATHLETIC AREA is any outdoor athletic field or park where youth organized sports occur that is in physical contact or separated solely by a public roadway or other public right-of-way to a school or early education center.

Add provisions (e)(11) and (e)(11)(B) to include adjacent athletic area and youth organized sports:

(e)...

- (11) An owner or operator that is conducting earth-moving activities of soil with applicable toxic air contaminant(s) at a school, early education center, ~~or joint use agreement property,~~ or adjacent athletic area shall:
- (A) Only conduct earth-moving activities at a school or early education center outside of the hours between 7:30 a.m. and 4:30 p.m. on days when the school or early education center is in session;
- (B) ~~Only~~ Not conduct earth-moving activities at a school, early education center, ~~or joint use agreement property,~~ or adjacent athletic area if whenever there is a no-school or early education center sponsored activity or youth organized sports at that site;

Amend provision (k) as follows:

(k)

(3) Linear trenching for sewer projects on roadways ~~and earth-moving activities consisting only of excavation activities of soil~~ with applicable toxic air contaminants, directly loaded into a truck or bin for transport, shall be exempt from all requirements except: paragraphs (e)(2) through (e)(8), paragraph (e)(11), and subdivisions (f), (h), and (i).

(4) Earth-moving activities consisting only of excavation activities of soil with applicable toxic air contaminants of less than 500 cubic yards, directly loaded into a truck or bin for transport, shall be exempt

from all requirements except: paragraphs (e)(2) through (e)(8), paragraph (e)(11), and subdivisions (f), (h), and (i).

(4)(5) Active operations conducted during emergency life-threatening situations, or in conjunction with any officially declared disaster or state of emergency as declared by an authorized health officer, agricultural commissioner, fire protection officer, or other authorized agency officer shall be exempt from all requirements. The Executive Officer shall be notified electronically no later than 48 hours following such earth-moving activities. Written notification shall include written emergency declaration from the authorized officer.

~~(5)~~(6) Active operations conducted by essential service utilities to provide electricity, natural gas, telephone, water, or sewer during periods of service outages and emergency disruptions shall be exempt from all requirements. The Executive Officer shall be notified electronically no later than 48 hours following such earthmoving activities.

38. Determine That Proposed Amendments to Rule 1118 – Control of Emission from Refinery Flares Are Exempt from CEQA; Amend Rule 1118; and Transfer and Appropriate Funding

Supervisor Ashley announced his abstention on Item No. 38 because of a financial interest in Chevron and left the room during discussion of the item.

Ian MacMillan, Planning and Rules Manager, gave the staff presentation on Item 38.

The public hearing was opened, and the following individuals addressed the Board on Item 38.

Jamini Parekh, Communities for a Better Environment, spoke in favor of strengthening the flare rule. She proposed two amendments to the rule, including replacing the emission factors for propane, butane, and methane with the U.S. EPA's VOC emission factor because the current factors do not sufficiently account for emissions and pollution from refineries; and secondly, that a requirement be added to evaluate how to meet VOC performance standards for all flares, not just clean service flaring. (Submitted Written Comments)

Dr. Lyou inquired if the VOC emission standard in the rule would be revisited in the future.

Dr. Fine responded that facilities will be required to prepare a scoping document addressing what can be done to minimize or eliminate flaring at different levels. This information will be evaluated for potential future rule changes.

Dr. Lyou further inquired as to why the U.S. EPA guidance document does not categorize clean service flares or flares that have dedicated propane or butane flares.

Mr. MacMillan noted that the emission factors from the U.S. EPA apply nationally and other parts of the country do not have as stringent requirements; the flaring can also be considered process flaring rather than clean service flaring. He added that applying one number to the entire nation is very difficult and through the optimal remote sensing study, data will be collected that can be shared with U.S. EPA.

Dr. Parker noted that refining operations in other parts of the country differ greatly from California because of different types of crude production and therefore flaring is dissimilar.

Alicia Rivera, Communities for a Better Environment, expressed support for the amended rule for refinery flares, but opposed the two year timeline for compliance. She noted health impacts increase when flaring occurs and added that the emission factors should be higher for flaring operations. (Submitted Written Comments)

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

MOVED BY CACCIOTTI, AND SECONDED BY ROBINSON, AGENDA ITEM NO. 38 APPROVED, ADOPTING RESOLUTION NO. 17-14, DETERMINING THAT THE PROPOSED AMENDMENTS TO RULE 1118—CONTROL OF EMISSIONS FROM REFINERY FLARES ARE EXEMPT FROM CEQA, AMENDING RULE 1118, AND TRANSFERRING AND APPROPRIATING FUNDING, BY THE FOLLOWING VOTE:

AYES: Benoit, Burke, Buscaino, Cacciotti, Kuehl, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSTAIN: Ashley

ABSENT: None

39. Certify Nonattainment New Source Review Compliance Demonstration for 2008 Ozone Standard **(Continued from June 2, 2017 meeting by operation of Governing Board Procedures, Administrative Code §30.10)**

Staff waived the presentation on Item No. 39.

The public hearing was opened; there being no requests to speak, the public hearing was closed.

MOVED BY BENOIT, AND SECONDED BY CACCIOTTI, AGENDA ITEM NO. 39 APPROVED, ADOPTING RESOLUTION NO. 17-15, CERTIFYING THE NONATTAINMENT NSR COMPLIANCE DEMONSTRATION FOR THE 2008 OZONE STANDARD FOR THE SOUTH COAST AIR BASIN AND THE COACHELLA VALLEY, AND DIRECTING STAFF TO FORWARD THE CERTIFIED NONATTAINMENT NSR COMPLIANCE DEMONSTRATION TO THE CARB FOR REVIEW AND SUBMISSION TO THE U.S. EPA AS A SIP REVISION, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino, Cacciotti, Kuehl, Lyou, McCallon, Mitchell, Nelson, Parker, Robinson and Rutherford

NOES: None

ABSENT: None

40. 2016 Annual Report on AB 2588 Air Toxics Hot Spots Program

Staff waived the presentation on Item No. 40.

The public hearing was opened; there being no requests to speak, the public hearing was closed.

MOVED BY BENOIT, SECONDED BY CACCIOTTI, AGENDA ITEM 40 APPROVED, RECEIVING AND FILING THE 2016 ANNUAL REPORT ON AB 2588 AIR TOXICS HOT SPOT PROGRAM, BY THE FOLLOWING VOTE:

AYES: Ashley, Benoit, Burke, Buscaino, Cacciotti, Kuehl, 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)

Eric Preven, spoke about disruptions at public meetings and commented on the importance of public testimony and thanked the Board for taking action on earth moving activities related to toxic soils. He raised the issue of short haul transportation workers at the Ports and the loss of jobs in this industry.

Harvey Eder, Public Solar Power Coalition, encouraged Board members to read the article “Air Pollution and Mortality and the Medicare Population” in the June 29 Issue of the New England Journal of Medicine.

**CLOSED SESSION**

The Board recessed to closed session at 12:15 p.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 SCAQMD is a party. The actions are:

People of the State of California, ex rel SCAQMD v. Exide Technologies, Inc., Los Angeles Superior Court Case No. BC533528;

In the Matter of SCAQMD v. Exide Technologies, Inc., SCAQMD Hearing Board Case No. 3151-29 (Order for Abatement); and

In re: Exide Technologies, Inc., U.S. Bankruptcy Court, District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy case).

- 54956.9(a) and 54956.9(d)(4) to consider initiation of litigation (one case).

Following closed session, General Counsel Kurt Wiese announced that there were no reportable actions taken in closed session<sup>1</sup>.

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<sup>1</sup> Subsequently, counsel determined to file a report and a report of action taken in closed session is on file with the Clerk of the Board’s office.

**ADJOURNMENT**

There being no further business, the meeting was adjourned by Kurt Wiese at 1:00 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on July 7, 2017.

Respectfully Submitted,

Denise Garzaro  
Clerk of the Boards

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

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Dr. William A. Burke, Chairman

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## ACRONYMS

BACT = Best Available Control Technology  
BARCT = Best Available Retrofit Control Technology  
CARB = California Air Resources Board  
CEQA = California Environmental Quality Act  
DEO = Deputy Executive Officer  
DTSC = Department of Toxic Substances Control  
FY = Fiscal Year  
MSRC = Mobile Source (Air Pollution Reduction) Review Committee  
NOx = Oxides of Nitrogen  
NSR = New Source Review  
PAR = Proposed Amended Rule  
PM2.5 = Particulate Matter  $\leq$  2.5 microns  
RECLAIM = REgional CLean Air Incentives Market  
RFP = Request for Proposals  
RFQ = Request for Quotations  
SIP = State Implementation Plan  
SOx = Oxides of Sulfur  
U.S. EPA = United States Environmental Protection Agency  
VOC = Volatile Organic Compound