

BOARD MEETING DATE: April 5, 2019

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the March 1, 2019 meeting.

**RECOMMENDED ACTION:**

Approve Minutes of the March 1, 2019 Board Meeting.

Denise Garzaro  
Clerk of the Boards

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**FRIDAY, MARCH 1, 2019**

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

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

Supervisor Lisa A. Bartlett  
County of Orange

Council Member Joe Buscaino  
City of Los Angeles

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

Supervisor Janice Hahn  
County of Los Angeles

Dr. Joseph K. Lyou  
Governor's Appointee

Mayor Pro Tem Larry McCallon  
Cities of San Bernardino County

Mayor Judith Mitchell  
Cities of Los Angeles County – Western Region

Supervisor V. Manuel Perez  
County of Riverside

Council Member Dwight Robinson  
Cities of Orange County

Supervisor Janice Rutherford  
County of San Bernardino

Member absent:

Council Member Ben Benoit  
Cities of Riverside County

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

- Pledge of Allegiance: Led by Mayor Mitchell.
- Opening Comments

Supervisor Perez expressed appreciation to staff for co-hosting with CARB an AB 617 community meeting in Mecca on February 22, 2019. He noted the importance of addressing air pollution concerns in the Eastern Coachella Valley.

Mayor Mitchell shared photos from a trip to Washington, D.C. on February 24-27, 2019 along with Mayor Pro Tem McCallon, Council Member Robinson and staff. She noted that they had a productive meeting with Bill Wehrum of U.S. EPA and commented that EPA is moving forward with an update to the national NOx standards for heavy-duty trucks. She added that they also met with Congressman Alan Lowenthal and Congressman Harley Rouda who represent Orange County.

Council Member Robinson echoed Mayor Mitchell's comments on the success of the Washington, D.C. trip. He noted that Cummins, Inc. has made great strides in developing an ultra-low NOx heavy-duty truck engine which is being deployed at the ports. He noted the importance of U.S. EPA moving forward with a new national NOx standard for heavy-duty trucks.

Mayor Pro Tem McCallon also thought the Washington, D.C. meetings were collaborative and commented on bipartisan agreement for continued funding for DERA.

Chairman Burke thanked the Board members who participated in the trip to Washington D.C. and noted the importance of meeting with legislative officials.

Chairman Burke introduced a video from the television program 60 Minutes regarding the significant increase in the use of EVs in China.

Council Member Cacciotti commented on how China's focus on air pollution has changed over the years and noted that many air quality regulations in the country closely mirror District rules and regulations.

- Presentation of Retirement Award to Norma Martinez

Chairman Burke presented a retirement award to Norma Martinez, in recognition of over 32 years of dedicated District service.

- Swearing in of Newly Appointed Board Member Lisa A. Bartlett

Chairman Burke administered the oath of office to Supervisor Bartlett who was appointed to the Board by the Orange County Board of Supervisors to a term ending January 15, 2022. Supervisor Bartlett expressed appreciation for the opportunity to serve on the Board.

## **CONSENT CALENDAR**

1. Approve Minutes of February 1, 2019 Board Meeting

**An errata sheet containing an amendment to the February 1, 2019 minutes was provided to the Board Members and copies were made available to the public.**

2. Set Public Hearing April 5, 2019 to Consider Adoption of and/or Amendments to SCAQMD Rules and Regulations

Certify Final Subsequent Environmental Assessment and Amend Rule 1134  
– Emissions of Oxides of Nitrogen from Stationary Gas Turbines

### **Budget/Fiscal Impact**

3. Recognize Funds, Execute and Amend Agreements for Installation and Maintenance of Air Filtration Systems, and Reimburse General Fund for Administrative Costs
4. Adopt Resolution Recognizing Funds and Accepting Terms and Conditions for FY 2018-19 Carl Moyer Program Award, Issue Program Announcements for Carl Moyer Program and SOON Provision, and Transfer Funds for Voucher Incentive Program
5. Approve SCAQMD Annual Investment Policy and Delegation of Authority to Appointed Treasurer to Invest SCAQMD Funds
6. Transfer and Appropriate Funds and Amend Contracts to Provide Short- and Long-Term Systems Development, Maintenance and Support Services
7. Authorize Purchase of Maintenance and Support Services for Servers and Storage Devices
8. Execute Contract for Consultant Services for SCAQMD Environmental Justice Outreach and Initiatives

9. Approve Contract Awards as Approved by MSRC

**Action Item/No Fiscal Impact**

10. Annual Meeting of Health Effects of Air Pollution Foundation
11. Amend Charter for Environmental Justice Community Partnership Advisory Council and Young Leaders Advisory Council

**Items 12 through 20 – Information Only/Receive and File**

12. Legislative, Public Affairs and Media Report
13. Hearing Board Report
14. Civil Filings and Civil Penalties Report
15. Lead Agency Projects and Environmental Documents Received by SCAQMD
16. Report of RFPs Scheduled for Release in March
17. Rule and Control Measure Forecast
18. FY 2018-19 Contract Activity
19. Status Report on Major Ongoing and Upcoming Projects for Information Management
20. Approve Annual Report on AB 2766 Funds from Motor Vehicle Registration Fees for FY 2016-17

Dr. Lyou announced his abstention on Item No. 3 because IQAir North America is a potential source of income to him; and on Item No. 4 because CARB is a potential source of income to him.

Supervisor Bartlett noted that since she was not present at the February 1, 2019 Board Meeting, she would abstain from voting on agenda Item No. 1.

Mayor Mitchell noted that she is a CARB Board Member which is involved with Item No. 4.

Supervisor Hahn noted that she is a member of the County of Los Angeles Board of Supervisors which is involved with Item No. 9.

Agenda Item Numbers 1, 4 and 10 were pulled for comment and discussion.

21. Items Deferred from Consent Calendar

1. Approve Minutes of February 1, 2019 Board Meeting

Dr. Lyou noted that an errata sheet containing an amendment to the February 1, 2019 Board meeting minutes was prepared in order to accurately reflect Chairman Burke's direction to address MHF.

10. Annual Meeting of Health Effects of Air Pollution Foundation

Council Member Cacciotti expressed support for the four major health studies that are being conducted by the foundation and asked if Dr. Black could provide a presentation on the studies at a future Board meeting.

Mr. Nastri responded that staff would contact Dr. Black to inquire about his availability.

MOVED BY CACCIOTTI, SECONDED BY LYOU, AGENDA ITEMS 1 AND 10 APPROVED AS RECOMMENDED, WITH THE MODIFICATION TO THE MINUTES AS SET FORTH BELOW, BY THE FOLLOWING VOTE:

AYES: Bartlett (*except Item #1*), Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Perez, Robinson and Rutherford

NOES: None

ABSTAIN: Bartlett (*Item #1 only*)

ABSENT: Benoit

**Amend Minutes of February 1, 2019 Board meeting as follows:**

Page 17, last paragraph:

Chairman Burke noted that the information that has been received has revealed that MHF is more dangerous than initially thought and noted the importance of coming to an agreement that protects the public. **Chairman Burke indicated that he would introduce a motion to direct staff to pursue both an MOU approach and proceed with rule development.**

Dr. Lyou left the room during discussion of Item No. 4.

4. Adopt Resolution Recognizing Funds and Accepting Terms and Conditions for FY 2018-19 Carl Moyer Program Award, Issue Program Announcements for Carl Moyer Program and SOON Provision, and Transfer Funds for Voucher Incentive Program

Michael Munoz, Clean and Safe Ports Project, expressed concern about the award of subsidies to trucking companies who violate labor laws and suggested that language be included in the program application indicating that a review of labor practices will be considered as part of the award process.

Supervisor Hahn asked if the program solicitation contains language regarding the guidelines that are used to award funds and if it includes information about the review of labor law violations. She suggested continuing the item to allow for further review.

Dr. Matt Miyasato, DEO/Science and Technology Advancement, explained that applicants must provide proof about how it has addressed any labor law violations after the applications are evaluated by staff and deemed eligible for award.

Council Member Buscaino noted the importance of being responsive to labor concerns.

Bayron Gilchrist, General Counsel, responded that CARB sets forth the eligibility criteria but a notation could be placed on the solicitation document indicating that labor law violations will be reviewed as part of the evaluation process.

Mr. Nastri explained that staff could amend the solicitation document prior to release to include language regarding the evaluation of labor law violations if that was the consensus of the Board.

MOVED BY HAHN, SECONDED BY BUSCAINO, AGENDA ITEM 4 APPROVED AS RECOMMENDED AND DIRECTING STAFF TO INCLUDE LANGUAGE IN THE PROGRAM SOLICITATION DOCUMENT REGARDING THE REVIEW OF LABOR AGREEMENTS FOR TRUCKING COMPANIES PRIOR TO AWARD AND ADOPTING RESOLUTION NO. 19-3 RECOGNIZING FUNDS AND ACCEPTING THE TERMS AND CONDITIONS OF THE FY 2018-19 CARL MOYER GRANT AWARD, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, McCallon, Mitchell, Parker, Perez, Robinson and Rutherford

NOES: None

ABSTAIN: Lyou

ABSENT: Benoit

MOVED BY ROBINSON, SECONDED BY CACCIOTTI, AGENDA ITEMS 2, 3, 5 THROUGH 9 AND 11 THROUGH 20 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 19-4 DELEGATING AUTHORITY TO THE TREASURER OF THE COUNTY OF THE LOS ANGELES TO INVEST AND REINVEST FUNDS OF THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou (*except Item #3*), McCallon, Mitchell, Parker, Perez, Robinson and Rutherford

NOES: None

ABSTAIN: Lyou (*Item #3 only*)

ABSENT: Benoit



**BOARD CALENDAR**

- 22. Administrative Committee
- 23. Investment Oversight Committee
- 24A. Legislative Committee
- 24B. Legislative Committee
- 25. Mobile Source Committee
- 26. Stationary Source Committee
- 27. Technology Committee
- 28. Mobile Source Air Pollution Reduction Review Committee
- 29. California Air Resources Board Monthly Report

CARB's meeting summary was not available, and therefore, Item 29 was pulled from consideration.

MOVED BY LYOU, SECONDED BY CACCIOTTI, AGENDA ITEMS 22 THROUGH 28, APPROVED AS RECOMMENDED, RECEIVING AND FILING THE COMMITTEE, AND MSRC REPORTS, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Perez, Robinson and Rutherford

NOES: None

ABSENT: Benoit

*Staff Presentation/Board Discussion*

30. Update on Development of Facility-Based Mobile Source Measures in 2016 AQMP

Dr. Sarah Rees, Assistant DEO/Planning, Rule Development and Area Sources, gave the staff presentation on Item 30.

Supervisor Hahn commented that ocean going vessels are one of the largest sources of air pollution and recognized the ports for their adoption of the Clean Air Action Plan. She commented that communities located near ports are heavily impacted by air pollution and asked staff to comment on plans to reduce emissions at berth.

Dr. Rees explained that there are requirements in place for plug-in to shore power at berth and CARB is developing revised at-berth regulations and considering newer technology such as the bonnet system. Staff is also looking at operational modes at the Port to address air pollution concerns in local communities and added that NO<sub>x</sub> and PM emissions associated with the maneuvering and transiting of ships from the port are significant and directly impact ozone. There is also strong interest from multiple shipping lines regarding engine retrofit systems.

Supervisor Hahn commented that the use of technology, such as the bonnet system, may allow for a reduction in emissions more quickly than engine retrofit systems.

Mr. Nastri noted that staff is working closely with CARB to reduce emissions at berth.

Council Member Cacciotti asked for information on LNG which is being used in European vessels.

Dr. Rees responded that staff is exploring all technologies including LNG which is used in Europe and Asia, primarily in river vessels. She commented on the amount of infrastructure that is required to deliver this type of gas and noted that other technologies provide a greater reduction of NO<sub>x</sub> emissions. She added that China is very interested in the District's work on retrofit technology for ocean going and smaller inland vessels.

Supervisor Rutherford expressed concern about adopting ISRs for warehouses and noted that if warehouses move out of state due to increased regulation there will still be trucks driving through California. She added that any fleet crediting or mitigation fees should be returned to the communities most impacted by pollution from trucks.

Dr. Rees responded that staff is carefully looking at warehouse business models to better understand the impacts of regulation on businesses and local communities.

Dr. Parker commented on the challenges associated with regulating interstate truck traffic and emphasized the importance of collaboration between the ports, airports and warehouses in reducing pollution.

Council Member Robinson asked if an individualized approach is being considered for the airport MOUs. He expressed support for the collaborative approach taken with the Ports and commented on the need to collaborate with heavy-duty truck partners in regards to rulemaking and funding for truck replacement. He asked about the low sulfur rule that the International Maritime Organization (IMO) has adopted and whether the reduction in sulfur content in bunker fuel will provide NO<sub>x</sub> benefits. He also asked if potential rules for new development or redevelopment would conflict with the Governor's focus on affordable housing.

Dr. Rees responded that an individualized MOU that is tailored to the operations of each airport is being considered, whereas with the ports there would be one MOU being developed that covers both ports. She added that the airports are developing their air quality improvement plans and once those are in place, specific MOU language can be developed. The sulfur reduction in bunker fuel provides a reduction in SO<sub>x</sub> and particulate matter, but not NO<sub>x</sub>. She added that the IMO adopted regulations for NO<sub>x</sub> in 2015, however, the turnover for vessels is so long that these regulations will not greatly reduce emissions in the near future. With regards to ISRs for new development, the issue of potential adverse impacts on affordable housing is being evaluated.

Council Member Robinson inquired about fleet credits in regards to ISRs for warehouses and asked about the timelines for facility-based measures. He noted the challenges involved with the ISR process in comparison to the MOU process and added concern about potential litigation that could further delay the adoption of rules and progress towards attainment. He noted the benefits of an MOU process that allows for air quality improvements more expeditiously.

Dr. Rees explained that staff is exploring concepts in which individual trucking fleets could get credits if their trucks are cleaner on average than current regulatory requirements and creating a bank where warehouse operators could purchase those credits to meet their emissions reduction obligation. She noted the longer timeline with the regulatory process due to the need to conduct additional research and economic studies to produce better informed rules.

Dr. Lyou noted that a comprehensive air quality and source apportionment study commissioned by LAX focused on air pollution and the impacts on the local community over a seven-year period. The study concluded that the largest source

of emissions impacting the community was the result of trucks and cars traveling to the airport. He noted the importance of looking at direct and indirect sources of pollution when developing MOUs. In regards to the retrofitting of ships, he noted the challenges over the years with commitments made to utilize cleaner ships and questioned the viability of retrofit technologies. He concurred with Supervisor Hahn that ship-capture and plug-in technologies at berth should be pursued, as well as technologies for the outer harbor. With regards for warehouses and the credit program, he expressed concerns with creating such a program while the sunset of the RECLAIM program has proved so complex. He concurred with Supervisor Rutherford about ensuring that mitigation funds benefit local communities that are most impacted. He noted the importance of engaging cargo owners and retail associations in the development of fleet rules for warehouses and ports. He acknowledged the potential for the District to be subject to litigation and noted that San Joaquin Valley Air Pollution Control District faced similar legal challenges, but ultimately prevailed.

Mayor Mitchell noted that ISRs are part of the AQMP and asked if the proposed measures will meet the expectations in the AQMP and if they are creditable to the State Implementation Plan (SIP).

Dr. Fine explained that specific emission reduction targets were not included for these measures in the AQMP, but it was noted that a large amount of emission reductions would come from the further deployment of clean air technologies. Facility-based measures are one of the measures to help define specifically how further deployment is going to occur, along with CARB regulations and incentive funding. The goal is to get SIP credit for both voluntary and regulatory measures.

Mayor Mitchell inquired about the legal authority that is granted to the District and CARB to impose facility-based regulations.

Barbara Baird, Chief Deputy Counsel, responded that CARB legal counsel determined that air districts were in a better position to impose facility-based measures based on specific statutory authority in the Health and Safety Code.

Mayor Mitchell noted that she concurred with Dr. Lyou about involving cargo owners during the development of warehouse options, expressed concerns about entering into a credit trading program and added support for exploring other possibilities for warehouse rules.

Mr. Nastri explained that there has been a lot of discussion on the merits of a credit-based system, particularly in light of what the legislature directed the District to do with regards to RECLAIM and BARCT provisions and the move to a command-and-control approach. He noted the challenges in looking for opportunities for significant emission reductions to meet the goals of the AQMP, and the collaborative work that is required between federal, state and local

authorities. He noted the success of the petition that resulted in the Cleaner Trucks Initiative and the broad-based coalition of state, local and business stakeholders that started the rulemaking process for heavy-duty truck emissions. He added that with regards to the ocean going vessels initiative, the District is spearheading an effort to build a coalition of stakeholders in many of the ports to bring additional resources and leverage the work that is being done. The District is working with community groups, industry and all stakeholders to address concerns and bring the best options for reductions to the Board.

Supervisor Bartlett commented that Orange County airport staff will be meeting with the District to discuss their plans to reduce emissions, including making minor revisions to their runways to allow newer jets with less emissions. She noted support for bonnet technology at the ports and commented that it may be more cost effective than other options for ships. She added concerns about ISRs for new development that may make the challenges of building out housing, especially affordable housing, more difficult.

Mayor Pro Tem McCallon noted that he does not support ISRs for warehouses and development and expressed support for the MOU process with the ports and airports. He added support for a national truck emission standard and incentive funding to encourage fleet turnover, but expressed opposition to a sales tax measure. He expressed concern about meeting the 2023 ozone attainment standard and asked why reductions in NOx emissions have not led to improved ozone levels.

Dr. Fine explained that the District is working diligently on meeting the 2023 and 2031 deadlines and goals outlined in the AQMP and explained the difficult challenges involved. He noted that incentive funding has doubled for projects that assist in meeting reduction goals. There has been progress but more incentive funding is needed. He commented that warmer weather patterns and possibly climate change have contributed to the increase in ozone levels. In addition, ozone is formed through complex chemistry in the atmosphere and a reduction in NOx emissions does not equate one-to-one with ozone reductions, but both NOx and VOC reductions are necessary to reduce ozone levels. At the end of this year or early next year, staff will submit a specific plan to U.S. EPA on the efforts and progress by the District to meet air quality standards and report progress on AQMP measures.

Chairman Burke suggested that staff present at the next Board retreat on proposed approaches to meet attainment goals.

Council Member Buscaino noted that he is encouraged by the MOU process with the ports and expressed support for using best technology at berth to reduce emissions. He noted support for working with the ports to encourage investment in bonnet technology which is proven and certified by CARB. He stressed the

importance of improving air quality for disadvantaged and impacted communities near the ports.

(Supervisor Perez left at 11:00 a.m.)

David Pettit, Natural Resources Defense Council  
Veronica Alvarado, The Warehouse Worker Resource Center  
Benjamin Reynoso, San Bernardino Generation Now  
Nazareth Velazco  
Miriam Garcia, The Warehouse Worker Resource Center  
Juan Oscar Barrios  
Caillie Roach, Student, University of Redlands  
Mackenzie Nelson, University of Redlands, Students for Environmental Action  
Jason Martinez, Chicano Indigenous Community for Cultured Conscience  
Advocacy and Action (ChICCCAA)  
Else Eifler, Student, University of Redlands  
Mat Taylor, ChICCCAA  
Mary Valdamar  
Paula Venegas  
Connor Tibbetts  
Abram Gastelum  
Miguel Rivera  
Iris Verduzco, Moving Forward Network, Occidental College  
Adrian Martinez, EarthJustice  
Carlo De La Cruz, Sierra Club  
Lorena Rodarte  
Ericka Flores  
Andrea Vidaurre, Center for Community Action and Environmental Justice  
(CCA EJ)  
Graciela Larios, CCA EJ  
Mario Vasquez, Teamsters 1932  
Laura Shultz  
Rich Smith, Teamsters 1932  
Kathleen Brennan, Teamsters 1932  
Jacob Erwin, Inland Empire Democratic Socialists of America

Expressed concern about increased air pollution in the Inland Empire due to increased truck traffic and construction of warehouses. They urged the Board to continue to support newer and zero-emission technologies as well as adopt stricter policies and enforcement measures to support clean air. They noted the health effects associated with poor air quality in the areas most impacted by the construction of new warehouses and advocated for a strong ISR for warehouses.

Amardeep Gill, Los Angeles Alliance for a New Economy, expressed concerns about economic impacts to truck drivers due to new warehouse regulations and noted that the costs of regulations or MOUs are often passed down to truck drivers.

Chris Cannon, Port of Los Angeles  
Matt Arms, Port of Long Beach  
Thomas Jelenic, Pacific Merchant Shipping Association

Noted support for the MOU process for the ports and expressed their commitment to continue to work with the working group and District staff. They noted the complexities related to SIP credit.

Zully Juarez, University of Southern California, Keck School of Medicine, detailed the health concerns of impacted communities near LAX and urged support for strong ISRs. She referenced a study that focused on ultra-fine particulate emissions in the flight path area of LAX. (Submitted Written Comments)

Theo Whitcomb expressed socio economic concerns due to poor air quality in EJ areas and noted the pre-mature deaths associated with pollution.

Angelo Logan, Moving Forward Network, Occidental College, expressed opposition to MOUs and cited a previous MOU with the railyards that was unsuccessful. He urged support for strong ISRs that include a public process and are enforceable.

Chairman Burke commented that the Board was not in support of the MOU between CARB and the railyards.

Graciela Regalado expressed concern about railyards and trucks that pollute the Inland Empire and urged the Board to support clean energy technologies and a strong ISR for warehouses.

Daryl Gale urged support for a strong ISR for warehouses and solar electrification of warehouse operations.

Luis Portillo, Inland Empire Economic Partnership, expressed concerns about the economic impacts of ISRs and urged the Board to focus on clean energy and zero-emission technologies to reduce emissions from cars and trucks.

Mayor Mitchell referenced slide number nine in the presentation and inquired about facility caps and zero-emission technologies and the possibility of requiring clean technologies at warehouses. She recommended that an ISR for warehouses be technology forcing and compliment the efforts by CARB, and that incentives should be offered.

Mr. Nastri explained that the presentation highlighted best practices and the range of compliance options that are being considered to achieve the maximum reductions possible. He added that there are more options that need to be addressed with input from communities before the Board's consideration.

**PUBLIC HEARINGS**

31. Determine that Proposed Amendments to Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006 are Exempt from CEQA; Amend Rules 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, and 3006

The presentation on Item No. 31 was waived.

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

MOVED BY MCCALLON, SECONDED BY CACCIOTTI, AGENDA ITEM NO. 31 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 19-5 DETERMINING THAT PROPOSED AMENDED RULES 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, AND 3006 ARE EXEMPT FROM THE REQUIREMENTS OF CEQA AND AMENDING RULES 110, 212, 301, 303, 306, 307.1, 309, 315, 518.2, 1310, 1605, 1610, 1612, 1620, 1623, 1710, 1714, AND 3006, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Robinson and Rutherford

NOES: None

ABSENT: Benoit and Perez

32. Approve and Adopt Technology Advancement Office Clean Fuels Program 2018 Annual Report and 2019 Plan Update and Resolution, Receive and File Revised Membership of Technology Advancement Advisory Group, and Approve and Adopt Membership Changes for Clean Fuels Advisory Group

The presentation on Item No. 32 was waived.

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



MOVED BY LYOU, SECONDED BY CACCIOTTI, AGENDA ITEM NO. 32 APPROVED AS RECOMMENDED, ADOPTING RESOLUTION NO. 19-6 APPROVING THE TECHNOLOGY ADVANCEMENT OFFICE CLEAN FUELS PROGRAM ANNUAL REPORT FOR 2018 AND ADOPTING THE CLEAN FUELS PROGRAM PLAN UPDATE FOR 2019, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Robinson and Rutherford

NOES: None

ABSENT: Benoit and Perez

33. Approve Annual RECLAIM Audit Report for 2017 Compliance Year

The presentation on Item No. 33 was waived.

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

MOVED BY ROBINSON, SECONDED BY CACCIOTTI, AGENDA ITEM NO. 33 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Robinson and Rutherford

NOES: None

ABSENT: Benoit and Perez

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

Chairman Burke inquired why a number of furnace manufacturers were providing public comments. Mr. Nastri responded that several of the manufacturers appeared before the Stationary Source Committee in February and were not satisfied with the committee's response.

Dr. Lyou noted that the committee supported staff's recommendation to not amend Rule 1111 to include a sell-through provision.

In response to Dr. Parker's inquiry regarding a previous extension of Rule 1111, Mr. Nastri confirmed there had been an extension granted.

Matthew Pereira, Ingersoll Rand  
\*Rusty Tharp, Goodman Manufacturing Company  
Doug Stewart, U.S. Air Conditioning distributors  
Chris Forth, Johnson Controls  
Steve Gaardsmoe, Signer Distribution  
\*Braden Cook, Carrier Corporation  
Craig Benefield, Carrier Corporation  
Jeff Winter, Howard Industries

Urged the Board to consider a six-month sell-through period for Rule 1111, similar to the sell-through period adopted by San Joaquin Valley Air Pollution Control District, due to the lack of compliant products on the market to meet demand, the need to transition inventory, and the complexity of planning for new construction.

\*(Submitted Written Comments)

David Winningham, Lennox International, noted that they are not in support of an extended sell-through period and commented that Rule 1111 has been amended twice to allow additional time. Lennox has manufactured compliant products by the deadline specified in Rule 1111, and stated that regulatory certainty is the key to drive market adoption of compliant products. An extended sell-through provision would further delay compliance. (Submitted Written Comments)

Written Comments Submitted By:

Ryan Teschner, Rheem Manufacturing Company

Chairman Burke asked about the market for units in the District and the life span of furnaces.

Dr. Fine responded that approximately 100,000 units are sold in the Basin each year, and the life span is between 10 to 15 years.

Dr. Lyou asked how Lennox was able to bring compliant products to the market in a timely manner.

Mr. Winningham commented on the substantial investments, challenges and efforts faced to develop compliant furnaces and weatherized products, in order to meet impending limits.

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Chairman Burke explained that there was a need to take immediate action to confer with District Counsel regarding a settlement offer communicated to the District for existing litigation, to which the agency is a party, which has been initiated formally in Allan Kalpakoff v. SCAQMD, et al, Los Angeles Superior Court Case No. BC666018, and that the need for action came to the attention of the District subsequent to the posting of the agenda. If the Board would like to consider this request a motion would be needed to add the item as an urgency item to the Closed Session agenda. The urgency for this matter was due to the fact that the settlement offer would expire at the close of business on March 1, 2019.

CHAIRMAN BURKE MOVED TO APPROVE THE ADDITION OF AN URGENCY ITEM TO THE CLOSED SESSION REGARDING EXISTING LITIGATION TO WHICH THE AGENCY IS A PARTY AND HAS BEEN INITIATED FORMALLY IN ALLAN KALPAKOFF V. SCAQMD, ET AL, LOS ANGELES SUPERIOR COURT CASE NO. BC666018, THE MOTION WAS SECONDED BY COUNCIL MEMBER CACCIOTTI AND APPROVED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Burke, Buscaino, Cacciotti, Hahn, Lyou, McCallon, Mitchell, Parker, Robinson and Rutherford

NOES: None

ABSENT: Benoit and Perez

### **CLOSED SESSION**

The Board recessed to closed session at 12:25 p.m., pursuant to Government Code sections:

#### **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

- 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:

Allan Kalpakoff v SCAQMD, et al., Los Angeles Superior Court Case No. BC666018;

In the Matter of SCAQMD v. Aerocraft Heat Treating Co., Inc. and Anaplex Corp., SCAQMD Hearing Board Case No. 6066-1 (Order for Abatement);

SCAQMD v. Anaplex, Los Angeles Superior Court Case No. BC608322 (Paramount Hexavalent Chromium);

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, District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy Case);

In the Matter of SCAQMD v. Torrance Refining Company, LLC, SCAQMD Hearing Board Case No. 6060-5 (Order for Abatement); and

People of the State of California, ex rel South Coast Air Quality Management District v. The Sherwin-Williams Company, an Ohio Corporation, and Does 1 through 50, Inclusive, Los Angeles Superior Court Case No. PSCV 00136.

#### CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

- 54956.9(d)(2) to confer with its counsel because there is a significant exposure to litigation against the SCAQMD (one case)—Letter from Steven J. Olson, O’Melveny & Myers LLP, on behalf of ExxonMobil Corporation, dated August 22, 2018.

Following closed session, Mr. Gilchrist announced that a report of any reportable actions taken in closed session will be filed with the Clerk of the Board’s office and made available to the public upon request.

**ADJOURNMENT**

There being no further business, the meeting was adjourned by Mr. Gilchrist at 12:55 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on March 1, 2019.

Respectfully Submitted,

Denise Garzaro  
Clerk of the Boards

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

\_\_\_\_\_  
Dr. William A. Burke, Chairman

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## ACRONYMS

AQMP = Air Quality Management Plan  
BACT = Best Available Control Technology  
BARCT = Best Available Retrofit Control Technology  
CARB = California Air Resources Board  
CEQA = California Environmental Quality Act  
DERA = Diesel Emissions Reduction Act  
EJ = Environmental Justice  
EV = Electric Vehicle  
FY = Fiscal Year  
IMO = International Maritime Organization  
ISR = Indirect Source Rule  
MOU = Memorandum of Understanding  
MSRC = Mobile Source (Air Pollution Reduction) Review Committee  
NOx = Oxides of Nitrogen  
LNG = Liquefied Natural Gas  
PM = Particulate Matter  
RECLAIM = Regional Clean Air Incentives Market  
RFP = Request for Proposals  
SIP = State Implementation Plan  
SOx = Oxides of Sulfur  
SOON = Surplus Off-Road Opt-in for NOx  
U.S. EPA = United States Environmental Protection Agency  
VOC = Volatile Organic Compound