

BOARD MEETING DATE: September 3, 2021

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the August 6, 2021 meeting.

**RECOMMENDED ACTION:**

Approve Minutes of the August 6, 2021 Board Meeting.

Faye Thomas  
Clerk of the Boards

**FRIDAY, AUGUST 6, 2021**

Notice having been duly given, the regular meeting of the South Coast Air Quality Management District Board was conducted remotely via videoconferencing and telephone. Members present:

Mayor Pro Tem Ben J. Benoit, Chair  
Cities of Riverside County

Senator Vanessa Delgado (Ret.), Vice Chair  
Senate Rules Committee Appointee

Supervisor Lisa A. Bartlett  
County of Orange

Council Member Joe Buscaino (Left the meeting at 2:30 p.m.)  
City of Los Angeles

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

Gideon Kracov  
Governor's Appointee

Supervisor Sheila Kuehl  
County of Los Angeles

Mayor Pro Tem Larry McCallon  
Cities of San Bernardino County

Veronica Padilla-Campos  
Speaker of the Assembly Appointee

Supervisor V. Manuel Perez  
County of Riverside

Vice Mayor Rex Richardson  
Cities of Los Angeles County – Western Region

Mayor Pro Tem Carlos Rodriguez  
Cities of Orange County

Supervisor Janice Rutherford  
County of San Bernardino

Members absent: None

**CALL TO ORDER:** Chair Benoit called the meeting to order at 9:00 a.m.

- Pledge of Allegiance: Led by Senator Delgado
- Swearing in of Reappointed Board Member Vanessa Delgado

Chair Benoit administered the oath of office to Senator Vanessa Delgado who was reappointed for a term ending January 15, 2024.

- Roll Call
- Opening Comments

Chair Benoit expressed disappointment that this meeting could not be held in person at the Diamond Bar headquarters building, due to the increase in COVID-19 cases.

Mayor Pro Tem McCallon commented on staff's letter dated August 3, 2021 that was in response to letters from environmental justice and environmental health partners who expressed disappointment that South Coast AQMD is not limiting efforts to strictly pursuing zero-emission pathways to achieve clean air. He commended staff for a thorough and fact-based response which focused on the need to pursue both a pathway to get emission reductions now, as well as plan for a zero-emission future.

Executive Officer Nastri acknowledged the efforts of staff in preparing a response that made it clear that we need to focus on emission reductions now.

Mr. Nastri commented on President Biden's executive order that sets a new target for half of all new vehicles sold in 2030 to be zero-emissions and directs U.S. EPA to begin work on new fuel efficiency and emissions standards. He noted support from congressional members and letters of support that were submitted by members of our delegation to the White House and the U.S. EPA Administrator. He added that South Coast AQMD will continue to work diligently to press the federal government to fulfill its federal responsibilities.

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

Jillian Aker, Earthjustice, requested that the general conformity budgets be eliminated from the 2022 AQMP. The Clean Air Act requires general conformity to ensure that federal actions comply with SIP goals of meeting air quality standards, but prior AQMPs have undermined such compliance by including pollution allowances called general conformity budgets. The South Coast Air basin is in extreme non-attainment for ozone and cannot afford to allow large increases in ozone precursors from general conformity budgets which allow companies to profit at the expense of public health.

Kevin Maggay, El Segundo resident, expressed health concerns related to the sewage spill on July 11, 2021 at the Hyperion Water Reclamation Plant. He noted that because of the foul odor residents are unable to open windows and go outside and are experiencing a variety of health symptoms. South Coast AQMD inspectors were quick to respond and issue Notices of Violation but there is an immediate need for fence-line and residential monitoring of hydrogen sulfide. He also emphasized the need to inform community members.

Byron Chan, Earthjustice, urged the Board to adopt a strong refinery rule (Proposed Rule 1109.1 – NO<sub>x</sub> Reductions from Refinery and Refinery Related Equipment). The South Coast Basin continues to have the most ozone pollution in the country, with 58 unhealthy days reported since June 1, 2021. Refineries are among the largest stationary sources of ozone pollution in the region, therefore, it is imperative that the Board take action to protect frontline communities by passing a strong refinery rule without further delays or weakening of the rule.

Al Sattler, San Pedro resident, commented on the community air monitoring station at St. Anthony's church in El Segundo that is part of the Rule 1180 – Refinery Community and Fence-line Air Monitoring program. Community members impacted by the Hyperion Water Reclamation Plant incident can get real-time information and historical data from the St. Anthony Church air monitor. He asked whether air samples were collected in canisters and analyzed by gas chromatography/mass spectrometry (GCMS) for the presence of other organic sulfur compounds.

Theral Golden, West Long Beach resident, noted that frontline communities near the Ports are significantly impacted by emissions and need relief from diesel trucks and other sources of air pollution. He cited a UCLA study which found that neighborhoods with the worst air pollution saw a 60 percent increase in deaths from COVID-19.

Harvey Eder, Public Solar Power Coalition (PSPC), expressed frustration about the lack of funding for solar technologies, concerns about increased temperatures in the Arctic affecting the jet stream and contributing to hotter weather and climate change.

Lisa Lapin, El Segundo resident, commented on a letter from the Mayor of Lancaster, who is also an attorney, to Mr. Nastri questioning the accuracy of the information on South Coast AQMD's website regarding the Hyperion Water Reclamation Plant. She also commented on her repeated requests to include detailed multi-metal air monitoring results from Paramount on the South Coast AQMD website and emphasized the need for transparency in reporting data.

Jessica Craven, Los Angeles County/State Democratic Party member, expressed concerns that Board meetings will return to in-person attendance only. She requested that meetings continue to be held in a hybrid format to allow the public to participate remotely.

Chair Benoit noted that his intent is to continue with the hybrid format as an option, assuming it will meet Brown Act requirements. There are several proposed legislative bills to amend the Brown Act.

Todd Campbell, Clean Energy, congratulated Senator Delgado on her reappointment to the Board. He praised staff on their efforts to direct an additional \$45 million towards low-NOx trucks to help communities impacted by air pollution, particularly from mobile sources.

Chair Benoit asked Mr. Nastri to respond to public comments about El Segundo and Paramount.

Mr. Nastri commented that South Coast AQMD inspectors and staff have been engaged with facility personnel and residents since the first day of the sewage spill and continue to monitor the situation. Several Notices of Violation have been issued and data is being collected from the fence-line monitoring system located at the Chevron El Segundo refinery, which is southwest of the area where many of the complaints are coming from. Mr. Nastri reported that he visited the Hyperion Water Reclamation site, and met with the director of the Los Angeles County Sanitation Districts and discussed developing a more robust monitoring plan. He clarified that the Paramount data is not in error, noting that there is a common misunderstanding about the analysis of samples and state health standards.

Dr. Jason Low/Assistant Deputy Executive Officer/Science & Technology Advancement, showed a slide presentation and provided information on air measurements in communities near the Hyperion Water Reclamation Plant. The mobile monitor was deployed to collect measurements for gaseous air toxics and methane in the community near the facility. Staff also evaluated data from air monitors that are part of the Rule 1180 refinery fence-line and community monitoring program at the Chevron Refinery and St. Anthony Church. The monitors measure hydrogen sulfide and VOCs. Recent data from these monitors indicated that while levels of some gases, such as hydrogen sulfide are higher than typical levels, they remain below health-based thresholds, such as the California state standard of 30 parts per billion (ppb), averaged over one hour for hydrogen sulfide.

Dr. Jo Kay Ghosh, Director of Community Air Programs/Health Effects Officer, stated that a letter had been sent clarifying measurement data and specifying the California ambient air quality standard for hydrogen sulfide. She emphasized that the timing of samples and averaging time are important factors when analyzing this type of data. The South Coast AQMD website has been updated to more clearly describe the sampling times and ambient air quality standard averaging times.

Mr. Nastri highlighted the professionalism and expertise of staff. He emphasized the fast response to provide updated data to the public on the agency's website and commitment to transparency. Staff responded aggressively to concerns about hexavalent chromium in Paramount and developed a suite of rules to address hexavalent chrome exposures in the community. For quite some time there has not been any monitoring

results in the community that would cause any health concerns; therefore, the recommendation was made for the South Coast AQMD to discontinue monitoring. Mr. Nastri reported that he and Vice Chair Delgado attended a Paramount city council meeting to discuss the monitoring efforts going forward.

In response to Lisa Lapin's comments, Ms. Whynot acknowledged agreeing to look into posting the multi-metals data for Paramount on the South Coast AQMD website but cautioned that it might be too resource intensive. Ongoing air monitoring results indicate there have been no substantial readings to report, noting that data summaries had been provided on the website for several weeks when there was nothing remarkable to post. The City of Paramount has purchased air monitoring equipment to continue monitoring hexavalent chromium and South Coast AQMD is providing short-term monitoring until the City can take over routine monitoring. If there are elevated readings in the future, staff will return to that community to ensure that the successes achieved in Paramount and reduced exposure to hexavalent chromium continues.

Chair Benoit empathized with the frustration of communities when it appears there is no investigative process taking place, but noted that things are often taking place in the background.

In response to Board Member Kracov's inquiry regarding South Coast AQMD's ongoing monitoring efforts in the City of Paramount, Ms. Whynot stated that staff will have access to monitoring data once the City begins its monitoring. Staff will continue to provide enforcement support and technical expertise to the City.

Chair Benoit announced that Dr. Ghosh is resigning from the South Coast AQMD and recognized her hard work and efforts.

Dr. Ghosh expressed appreciation for the opportunities afforded to her over the last five and half years at the South Coast AQMD and noted that she would be returning to the public health arena.

Supervisor Kuehl expressed gratitude to Dr. Ghosh for her contributions at South Coast AQMD and wished her well in her future endeavors.

Supervisor Perez expressed appreciation to Dr. Ghosh for her work and efforts with the Eastern Coachella Valley (ECV) communities on the AB 617 program.

Dr. Ghosh stated that she has enjoyed working with the communities in the Eastern Coachella Valley (ECV) and noted that she will be involved as an advisor on a U.S. EPA Environmental Justice cooperative agreement that will be brought before the Board for approval in a couple months.

Written Comments Submitted re: Rule 1109.1 by:

Judith Bustamante  
Sabrina Bustamante  
Ernie Avila

## **CONSENT AND BOARD CALENDAR**

1. Approve Minutes of June 4, 2021 Board Meeting
2. Set Public Hearing September 3, 2021 to Consider Adoption of and/or Amendments to South Coast AQMD Rules and Regulations

Determine That Proposed Amendments to Rule 1111 – Reduction of NOx Emissions from Natural-Gas-Fired, Fan-Type Central Furnaces Are Exempt from CEQA and Amend Rule 1111

### **Items 3 through 9 -- Budget/Fiscal Impact**

3. Execute Contracts for Technical Assistance and Program Implementation to Support South Coast AQMD's Technology Advancement Activities
4. Execute Contract to Develop and Demonstrate Hydrogen Fuel Cell Medium-Duty Buses
5. Recognize Revenue, Appropriate Funds, and Issue Solicitation and Purchase Orders for Air Monitoring Equipment
6. Recognize Funds and Execute MOUs with City of Los Angeles and City of Long Beach, Acting by and Through Port of Los Angeles and Port of Long Beach, for New Cleanest Available Drayage Trucks Meeting Proposition 1B Program Guidelines
7. Transfer and Appropriate Funds for Implementation of Warehouse Indirect Source Rule Online Portal
8. Authorization to Amend Contract for Security Guard Services
9. Approve Contract Award and Modification and Approve Fund Transfer for Miscellaneous and Direct Expenditures Costs in FY 2021-22 as Approved by MSRC

### **Item 10 -- Action Item/No Fiscal Impact**

10. Approve Charter for South Coast AQMD's Young Leaders Advisory Council

**Items 11 through 16 – Information Only/Receive and File**

11. Legislative, Public Affairs and Media Report
12. Hearing Board Report
13. Civil Filings and Civil Penalties Report
14. Lead Agency Projects and Environmental Documents Received
15. Rule and Control Measure Forecast
16. Status Report on Major Ongoing and Upcoming Projects for Information Management

Supervisor Rutherford and Mayor McCallon noted that they do not have a financial interest in Item No. 9 but are required to identify for the record that they are members of the San Bernardino County Transportation Commission, which is involved in this item.

Board Member Kracov recused himself from Item No. 2 out of an abundance of caution due to a potential conflict of interest.

Supervisor Perez noted that he has no financial interest in Item No. 5 but is required to identify for the record that he is a Board member of SunLine Transit Agency, which is involved in this item.

Bayron Gilchrist, General Counsel, noted that Vice Mayor Richardson would like to identify for the record that he has no financial interest in Item No. 6 but is required to identify for the record that he is a Council Member of the City of Long Beach, which is involved in this item.

Mr. Gilchrist also noted that Council Member Buscaino would like to identify for the record that he has no financial interest in Item No.6 but is required to identify for the record that he is a Council Member of the City of Los Angeles, which is involved in this item.

Item No. 7 was held for comment and discussion.



MOVED BY CACCIOTTI, SECONDED BY KUEHL, AGENDA ITEMS 1 THROUGH 6 AND 8 THROUGH 16, APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Buscaino, Cacciotti, Delgado, Kracov (Recused from Item 2), Kuehl, McCallon, Padilla-Campos, Perez, Richardson, Rodriguez, and Rutherford

NOES: None

ABSTAIN: Kracov (Item 2)

ABSENT: None

**Item 17 -- Staff Presentation/Board Discussion/Receive and File**

17. Budget and Economic Outlook Update (*Presentation in Lieu of Board Letter*)

Jill Whynot, Chief Operating Officer, gave an overview of the presentation on Item No. 17 to provide an update on economic indicators and South Coast AQMD metrics and economic implications.

PRESENTATION ONLY; NO ACTION REQUIRED

**Items 18 through 24 -- Reports for Committees and CARB**

18. Administrative Committee
19. Legislative Committee
20. Mobile Source Committee
21. Stationary Source Committee
22. Technology Committee

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

MOVED BY CACCIOTTI, SECONDED BY BUSCAINO, AGENDA ITEMS 18 THROUGH 24, APPROVED AS RECOMMENDED, TO RECEIVE AND FILE THE COMMITTEE, MSRC AND CARB REPORTS, AND APPROVE THE LEGISLATIVE COMMITTEE'S RECOMMENDATION ON LEGISLATION AS SET FORTH BELOW, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Buscaino, Cacciotti, Delgado, Kracov, Kuehl, McCallon, Padilla-Campos, Perez, Richardson, Rodriguez, and Rutherford

NOES: None

ABSENT: None

**LEGISLATIVE COMMITTEE'S RECOMMENDATION**

<b>Agenda Item</b>	<b>Recommendation</b>
AB 1524 (O'Donnell) State Air Resources Board: zero-emission drayage trucks: Project 800 initiative	Support

25. Items Deferred from Consent and Board Calendar

- 7. Transfer and Appropriate Funds for Implementation of Warehouse Indirect Source Rule Online Portal

Mayor Pro Tem Rodriguez remarked that he is pleased with the information being made available on the Rule 2305 – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program online portal. He inquired about the types of ongoing outreach efforts.

Chair Benoit recommended that an update about outreach efforts be discussed at the Mobile Source Committee and brought back to the full Board, if needed.

Ian MacMillan, Assistant DEO/Planning, Rule Development and Area Sources stated that outreach efforts are being conducted through multiple channels of communications, including mailers, emails, social media, newsletters, webinars, training videos and a single point of contact phone line. There has been extensive communication with industry, regulated facilities and others. The primary focus is to provide assistance and get the word out to the affected parties.

Mayor Pro Tem Cacciotti commended staff for their presentation at the July 21, 2021 Warehouse Indirect Source Rule (ISR) Compliance webinar, which he had the opportunity to attend.

MOVED BY RODRIGUEZ, SECONDED BY BENOIT, AGENDA ITEM 7 APPROVED AS RECOMMENDED, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Buscaino, Cacciotti, Delgado, Kracov, Kuehl, McCallon, Padilla-Campos, Perez, Richardson, Rodriguez, and Rutherford

NOES: None

ABSENT: None

### **BOARD DISCUSSION/BOARD ACTION**

26. Multiple Air Toxics Exposure Study V (MATES V) Final Report

Dr. Jo Kay Ghosh gave the staff presentation on Item No. 26.

Board Member Kracov inquired about the locations designated in dark purple on the Air Toxic Cancer Risk – Modeling Data map that have the highest cancer risk. He also asked about cancer risk weighted by population.

Dr. Ghosh responded that the areas of higher air toxics risk continue to include those areas near the ports and goods movement corridor, with the highest risk in communities near the ports. The population-weighted cancer risk in the port area is around 500-in-a-million which is well above the Basin average of 423-in-a-million.

Board Member Kracov noted the progress in reducing air toxics risks but recognized that work still needs to be done at the ports.

Council Member Buscaino asked whether reductions in emissions from mobile sources are needed to continue reducing air toxics risks, noting that South Coast AQMD's primary authority is to regulate stationary sources.

Dr. Ghosh responded that diesel particulate matter has been and continues to be the main driver for air toxics cancer risk. She added that the majority of diesel particulate matter emissions come from mobile sources in our region.

Chair Benoit commended staff for improvements in the MATES analysis and improved graphics and detail on the mapping tool compared to previous MATES studies.

Vice Mayor Richardson commented on the improvement in air quality, attributing the progress to regulations and policies that are being deployed. He inquired about what is contributing to the significant reductions in diesel particulate matter. He thanked Dr. Ghosh for her work on MATES V.

Dr. Ghosh responded that the adoption of regulations has played a key role in driving cleaner technologies, and that cleaner trucks are largely responsible for the reductions in diesel particulate matter. She noted that cleaner trucks will continue to be an important issue for air quality in our region.

Board Member Padilla-Campos asked for a direct link to the online data tool. Dr. Ghosh responded that staff will update the South Coast AQMD website after Board approval of the MATES V report and send her a direct link.

Chair Benoit commended Dr. Ghosh for her work and acknowledged the immediate need to hire her replacement so that staff can continue to make progress towards the next MATES study.

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

Theral Golden, West Long Beach resident, expressed appreciation to Dr. Ghosh for the report and her professionalism over the years. He asked about non-cancer health impacts from exposure to air toxics and whether there is a correlation between air toxics and respiratory illnesses.

Harvey Eder asked about benzene and formaldehyde from combustion of natural gas and commented on climate change and its global implications.

Emily Spokes, NELA Climate Collective, thanked Dr. Ghosh for the presentation and expressed concerns about diesel particulate matter and the connection to higher rates of cancer. She added that the long-term effects from exposure may not show up for years.

Dr. Karen Jakpor, American Lung Association volunteer/Riverside resident, thanked Dr. Ghosh for her work and requested that staff consider adding a sampling station farther east for the next MATES study to better represent San Bernardino and Riverside Counties.

Sari Fordham, 350 Riverside, expressed concerns about unhealthy air and its connection to cancer risks. She urged the Board to adopt a strong ISR for the ports to protect children. She thanked the Board for continuing to offer Zoom as an option for public comments.

Jessica Craven thanked the Board for adopting an ISR to electrify warehouses. She urged the Board to do the same to electrify the ports.

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

Dr. Ghosh responded to questions from public commenters. Staff analyzed environmental justice (EJ) communities compared to non-EJ communities and found that air quality improved in both sets of communities from MATES IV to V, but the EJ communities still have a much higher cancer risk than non-EJ communities. She noted that specifically in the West Long Beach and Carson areas, cancer risks were higher than the Basin average but that cancer risks had decreased in these areas in MATES V compared to MATES IV. Dr. Ghosh stated that non-cancer risks will be an area of work in future studies; many of the regulations that reduce air toxics also address non-cancer risks. Dr. Ghosh noted that benzene is modeled and measured, and accounts for about 11 percent of the air toxics cancer risk. Staff can consider adding another site related to communities impacted by warehouses in the future, but the ability to look at long-term trends at the same set of sites is a strength of MATES.

Chair Benoit commented on the request to add an air monitor to the MATES network, noting that the MATES study relies on historical data.

Dr. Ghosh concurred that the strength of MATES is to look at long-term trends to compare over time, but there are other air monitoring programs for different purposes.

Board Member Padilla-Campos asked whether the report will be distributed so that non-profit groups and organizations can review the information. Dr. Ghosh stated that results will be available on the website, a press release was issued, and results will be shared with AB 617 communities.

Mr. Nastri added that the MATES studies are widely cited within the academic, business and research communities, U.S. EPA and CARB. The information is posted on the South Coast AQMD website for the public. He further noted that the improved visualization tools in MATES V will make the data more accessible to the public.

Board Member Padilla-Campos offered to make people aware of the study at the grassroots and community level.

PRESENTATION ONLY; NO ACTION REQUIRED

27. Update on Facility-Based Mobile Source Measure Development for Marine Ports  
(*Presentation in lieu of Board Letter*)

Ian MacMillan, Assistant DEO/Planning, Rule Development and Area Sources, gave the staff presentation on Item No. 27.

Board Member Kracov commented on the need to balance the growth in port activities and the South Coast AQMD's mission to reduce emissions and improve air quality. He expressed support for directing staff to continue working with the Ports in good faith on an MOU while at the same time developing an ISR, with regular updates to the Mobile Source Committee.

Mayor Pro Tem Cacciotti's asked whether pursuing an ISR would jeopardize grant funding as asserted in several public comment letters.

Mr. MacMillan responded that similar to the Warehouse ISR, staff would take steps to make sure that incentive funds can be used to the extent possible. There is always concern about using incentive funding within any regulation, but there are several models on how to do that. He added that the same concern would apply to an MOU.

Mayor Pro Tem Cacciotti asked what progress has been made on the MOU over the past few years and the difference between the MOU recently proposed and the 2018 version.

Mr. Nastri noted that there were several issues that stalled the MOU process. It has been a lengthy delay without an impetus by the Ports to get the job done. The MOU proposed in 2018 addressed availability of funding, and availability and deployment of technology as a path toward attainment. Revisions have been made to the original MOU, given the impending attainment deadlines. Staff's intent has been to move forward with the MOU but develop an ISR as a backstop.

Mayor Pro Tem Rodriguez asked if there were substantial changes to the MOU and whether those changes were discussed in good faith with the Ports. He also inquired about the twenty-foot equivalent unit (TEU) fee amount.

Mr. Nastri stated that a redlined version of the original MOU was presented to the Ports and there was an agreement to discuss the MOU language next. He noted that staff is willing to engage in that discussion to move forward. The study that the Ports prepared cited \$70 to \$90 per TEU for the Clean Truck Fund Rate;

however, Port staff decided there were flaws in that study and the \$10 per TEU rate was developed. South Coast AQMD staff believe the study was correct and that the funding amount should be higher.

Mayor Pro Tem Rodriguez expressed concern that the changes to the MOU were presented a few weeks ago. There has not been enough time for the parties to vet the changes and to understand how far apart they are on specific areas.

Mr. Nastri noted that there has been no progress with the MOU negotiations which has been in limbo for some time. Staff intends to continue discussions on the MOU but would like to have an ISR as an option if there continues to be no movement on the negotiations.

Supervisor Bartlett expressed support for staff to continue working on the MOU negotiations. She emphasized that an MOU needs to take into account other considerations in discussions and the rulemaking process, such as zero-emissions technology is not yet widely available, delays due to COVID and CARB's proposed regulation that would require the transition of truck fleets to zero-emissions,

Mr. Nastri emphasized that near-zero emission technology is available and needs to be deployed to achieve emission reductions as early as possible due to the limited availability of zero-emission technology in some applications.

The public hearing was opened, and the following individuals addressed the Board on Item 27.

Evelyn Nuno read a letter from Assemblymember Christina Garcia in support of a strong ISR and expressing concerns with the high toxics levels reported in MATES V. There needs to be a balance between growth and clean air. (Submitted Written Comments)

Gene Seroka, Port of Los Angeles, urged the Board to support further discussions on completion of an MOU instead of an ISR. He expressed concern that rulemaking will open the potential for litigation, jeopardize public funding availability and disengage the private sector. He stated that South Coast AQMD staff had agreed to pause discussions on the MOU due to the uncertainty of COVID-19 and impacts on the supply chain. (Submitted Written Comments)

Mario Cordero, Port of Long Beach, expressed commitment to formalizing the MOU with South Coast AQMD. He commented that there was an agreement to delay discussions and questioned whether an ISR is an appropriate remedy given the Ports' record on substantial emission reductions from Port operations in the last decade. (Submitted Written Comments)

Vice Mayor Richardson asked Mr. Cordero to comment on the status of the MOU and \$10 per TEU Clean Truck Fund Rate.

Mr. Cordero stated that negotiations were nearing completion on an earlier version of draft MOU language and that further negotiations would be needed with regards to the latest proposed version. He added that all parties had agreed to the \$10 per TEU fee in March 2020, but implementation was interrupted by the pandemic. He further acknowledged that the fee rate remains negotiable. Mr. Cordero emphasized the Ports' resolve, investment and success in implementing the CAAP and achieving emission reductions. He stated his belief that an ISR approach would hamper the Ports' ability to work cooperatively within the port industry; limit access to funding for cleaner equipment; and bring unnecessary divide among stakeholders. He then referenced demonstration and early deployment projects implemented as part of the CAAP and in partnership with the South Coast AQMD. Mr. Cordero also referenced the Ports' contract with PortCheck to establish the mechanism to collect the per TEU container fee, and added that the system will be ready in the first quarter of 2022. Both Ports have Resolutions, adopted by their respective Boards of Harbor Commissioners, exempting low-NOx trucks from the per TEU truck fee. Mr. Cordero urged the Board to consider continuing the MOU process, then pivoting to an ISR if deemed necessary by the Board after allowing more time for MOU negotiations.

Mr. Nastri responded that, while the delay was partially attributable to the pandemic, there were other reasons. He noted that staff's frustration over the lack of MOU progress can be put in the context of our understanding of technology readiness for the vehicle markets, the narrow window for emission reductions before the 2023 attainment deadline, and the impact of CARB's truck and bus rule on SIP-creditable emissions for attainment demonstration. Mr. Nastri emphasized the need for timely emission reductions, which necessitates a time limit for an MOU approach.

Mr. Nastri acknowledged that the \$10 per TEU truck fee rate was adopted by the Ports before the pandemic, but there has been no adoption of an implementation schedule for fee collection, which Mr. Cordero stated would not be in effect until 2022.

Ricardo Hidalgo, International Brotherhood of Teamsters, urged the Board to allow the MOU negotiations with the Ports to continue for the next six months and initiate rulemaking for an ISR if there is no agreement in the six-month timeframe.

Dr. Karen Jakpor expressed concern with the prolonged MOU negotiations and allowing industry to self-regulate with voluntary approaches. She noted that the Ports have not yet implemented the Clean Truck Fund Rate. She commented on the recent increase in goods movement through the Ports and emphasized the need to pursue an ISR for the ports to reduce emissions and achieve attainment of federal air quality standards.



Giancarlo Rubio, Valley Industry & Commerce Association  
Sarah Wiltfong, BizFed  
Harry Semerdjian, Los Angeles Area Chamber of Commerce  
\*Thomas Jelenic, Pacific Merchant Shipping Association  
Matt Schrap, Harbor Trucking Association  
\*(Submitted Written Comments)

Expressed support for the Ports of Los Angeles and Long Beach 2017 Clean Air Action Plan (CAAP) Update and opposition to a Port ISR. Noted that the CAAP Update has achieved significant emission reductions through cooperative, voluntary measures. Urged support for the continued use of a voluntary, collaborative approach, which has been effective in reducing emissions and achieving clean air goals rather than regulatory oversight.

Chris Chavez, Coalition for Clean Air, expressed support to begin developing a Port ISR, emphasizing opposition to using mitigation fees that do not result in actual emission reductions as part of the rule. He expressed concerns with the MOU approach, as well as the prolonged negotiation process, and that there is no clear timeline for implementation of the Clean Truck Fund Rate. He urged the Board to consider putting a tight deadline on MOU negotiations to show meaningful progress, and to initiate rulemaking if the deadline is missed.

Emily Spokes, NELA Climate Collective, urged electrification of the Ports and expressed concern for the impending danger of a climate crisis and results of the MATES V final report that shows high cancer risks for residents living near the Ports.

Alec Cronin, Natural Resources Defense Council, commented on air pollution and its impact on the health of residents living in communities closest to the Ports and freight networks. He urged the South Coast AQMD to develop a strong Port ISR, noting that the MATES V final report shows high cancer risks for residents living near the ports and transportation corridor.

Taylor Thomas, Long Beach resident/East Yard Communities for Environmental Justice (EYCEJ)  
Francis Yang, Sierra Club  
Clare Backman, Los Angeles resident  
Yassi Kavezade, Sierra Club My Generation Campaign

Spoke in support of pursuing an ISR. Expressed frustration with the lack of progress on the MOU process, CAAP, Clean Truck Fund Rate and voluntary approaches that have not improved toxic air quality level or achieved emission reductions while residents in communities continue to be exposed to emissions from port operations. Urged the Board to adopt a strong Port ISR to hold the ports accountable for emissions of harmful pollutants.

David Marrett, Ph.D, Environmental Scientist, noted that fossil fuel emissions affect public health and expressed support for a strong Port ISR to clean and electrify the Ports and transportation system.

Elliott Gonzales, a member of the public, commented on the importance to electrify California's truck fleet through the ISR for warehouses and Ports to achieve health and environmental benefits.

Marvin Pineda, International Longshore and Warehouse Union (ILWU) Locals 13, 63, and 94, stated that their membership is committed to cleaning the environment, as they work and live in these communities. He requested that the Ports and South Coast AQMD staff continue to work together on an MOU and wait on developing an ISR. He extended an invitation to Board members to meet with the ILWU local leadership to develop solutions to cleaner communities and retain jobs.

Michael Muñoz, Los Angeles Alliance for a New Economy  
Jim Sim, Teamsters Local 396

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Spoke in support of the recommendation to continue the MOU process with a hard deadline of four-to-six months, with developing an ISR if there is no final agreement within that timeframe. Expressed a need for negotiations to address the misclassification of truck drivers.

In response to Board Member Kracov's request for an explanation about the misclassification of truck drivers, Mr. Smith explained that Port trucking companies misclassify most truck drivers as independent contractors instead of employees. This places the cost burden for complying with regulations and rules on truck drivers rather than the trucking firms.

Jessica Geiger, a member of the public  
Jasmine, City of Commerce resident  
Paula, City of Compton resident/East Yard Communities for Environmental Justice (EYCEJ)  
Laura, Bell Gardens resident  
Angie Balderas, Sierra Club My Generation Campaign  
Kim Floyd, Southern California resident  
Mandeera Wijetunga, Pacific Environment  
Jocelyn Del Rio, EYCEJ/AB 617 Community Steering Committee member  
Jamila C., MPH/Maywood resident  
Jan Victor Andasan, EYCEJ/Carson resident,  
Diego Mayan, EYCEJ/Carson resident  
Cindy Donis, EYCEJ/Southgate resident  
Wesley Chuang, Los Angeles resident  
Yassi Kavezade, Sierra Club My Generation Campaign  
Diana Sanchez, Los Angeles resident

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Urged support to immediately start rulemaking on an ISR that requires the

Ports to clean up air pollution, noting that frontline communities disproportionately bear the brunt of toxic emissions from the Ports and goods movement activities. Noted that the Ports continue to see record-breaking cargo volume that increases ship and truck emissions into neighborhoods near the Ports. A strong ISR to electrify the ports is needed because voluntary efforts are not enough to make a difference in improving air quality.

Al Sattler, a member of the public, expressed support to conduct a parallel process to pursue MOU negotiations and the Port ISR as a backstop measure. He noted the need for the Board and Ports to protect the health of people impacted by air pollution from the Ports and goods movement.

Marven Norman, Center for Community Action and Environmental Justice  
Andrea Vidaurre, Peoples Collective for Environmental Justice

Expressed support for the staff recommendation to develop a Port ISR. Noted that a Port ISR would supplement the Warehouse ISR and close the gap for goods movement between the ports and warehouses in the Inland Empire communities.

Theral Golden, West Long Beach resident/West Long Beach Association, expressed support for proceeding in both ways. He emphasized that the community needs relief from the negative health effects of air pollution from the ports and South Coast AQMD is the entity that has the authority to help.

Mark! Lopez, EYCEJ, commented on the Port Backstop Rule that was drafted years ago and urged the Board to not allow further attempts to delay rulemaking efforts.

Tiffany Sanchez, EYCEJ, highlighted the need for the South Coast AQMD to pursue policies that protect public health.

Fernando Gaytan, Earthjustice, expressed support to pursue an ISR for the ports. He stated that the Ports of Los Angeles and Long Beach remain Southern California's largest source of air pollution and communities near the Ports continue to disproportionately bear the health impacts of activities from the Ports. Substantial time has already been spent pursuing an MOU and waiting for the Ports to act voluntarily to reduce emissions. The South Coast AQMD has the legal authority and obligation to develop enforceable rules to protect public health.

Harvey Eder commented that widespread changes in weather patterns, underscores the need to expedite the adoption of ISRs to phase out fossil fuels.

Jennifer Cardenas, Inland Empire resident, expressed concern with children living in frontline communities surrounded by warehouses that are suffering with respiratory problems.

Jeremy Santos, Fontana resident, expressed support for a Port ISR that prioritizes overburdened communities and vulnerable populations near the Ports that are disproportionately impacted by air toxics exposure and cancer risks.

Brian Yanita, Fullerton resident, stated his support for a Port ISR and expressed concern that the Ports have not acted on the short-haul freight rail concept identified in the CAAP.

Todd Campbell, Clean Energy, expressed opposition to delaying the ISR and for the MOU negotiations to continue. Given the substantial impacts of port-related pollution on neighboring communities and the region at large, it would be advisable to include all advanced clean strategies within the AQMP that can offer immediate and deep criteria pollutant and carbon emissions reductions for port operations as soon as possible.

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

Council Member Buscaino remarked about the economic and environmental impacts of the port complex throughout the region, noting that there have been significant emission reductions in the region due to voluntary programs/plans that the ports have enacted. He encouraged ongoing collaboration and made a motion to delay action on developing an ISR, give the Ports six months to implement the container fee and update the 2018 version of the MOU.

MOVED BY COUNCIL MEMBER BUSCAINO, SECONDED BY SUPERVISOR RUTHERFORD, TO DIRECT STAFF TO DELAY DEVELOPMENT OF AN INDIRECT SOURCE RULE (ISR) FOR MARINE PORTS FOR THE NEXT SIX MONTHS AND COLLABORATE WITH THE PORTS TO NEGOTIATE AND UPDATE THE 2018 VERSION OF THE MOU WITH THE FOLLOWING MILESTONES: A DRAFT MOU TO BE PRESENTED TO THE MARINE PORT COMMITTEE WITHIN THE FIRST THREE MONTHS OF THE SIX-MONTH TIMEFRAME; PROVIDE REGULAR, ONGOING PROGRESS REPORTS THROUGH THE MARINE PORT COMMITTEE; AND SUBMITTAL OF THE FINAL MOU AGREEMENT BY THE SIX-MONTH DEADLINE.

Vice Mayor Richardson added his support to the motion but moved to bifurcate the process.

MOVED BY VICE MAYOR RICHARDSON, A SUBSTITUTE MOTION TO DIRECT STAFF TO BEGIN MOU NEGOTIATIONS WITH THE PORTS EFFECTIVE

IMMEDIATELY FOR A SIX-MONTH PERIOD, AND ONLY BEGIN TO DEVELOP THE FRAMEWORK FOR AN ISR IF THERE IS NO MOU AGREEMENT BY THE END OF THE SIX-MONTH PERIOD, WITH REGULAR PROGRESS REPORTS ON THE MOU NEGOTIATIONS PROVIDED TO THE MARINE PORT COMMITTEE AND PROGRESS REPORTS ON THE ISR DEVELOPMENT PROVIDED TO THE MOBILE SOURCE COMMITTEE.

SENATOR DELGADO SECONDED VICE MAYOR RICHARDSON'S MOTION WITH AN AMENDMENT TO REQUIRE THAT THE PORTS OBTAIN APPROVAL OF THE FINAL MOU AGREEMENT FROM THEIR RESPECTIVE BOARD OF HARBOR COMMISSIONERS BY THE SIX-MONTH DEADLINE.

Supervisor Rutherford reiterated that South Coast AQMD does not have the primary responsibility to regulate mobile sources and should not be enacting indirect source rules. Diesel trucks are the problem and indirect source rules do not fix the problem.

Board Member Padilla-Campos expressed opposition to continue the MOU negotiations and voluntary measures that will not protect public health. She made a motion to approve the staff recommendation.

MOVED BY BOARD MEMBER PADILLA-CAMPOS A SECOND SUBSTITUTE MOTION TO APPROVE THE STAFF RECOMMENDATION TO PURSUE THE UPDATED COMPREHENSIVE MOU APPROACH WITH THE PORT OF LOS ANGELES AND PORT OF LONG BEACH, AND SIMULTANEOUSLY DEVELOP AN ISR FOR THE MARINE PORTS. THE MOTION WAS SECONDED BY MAYOR PRO TEM CACCIOTTI.

Supervisor Kuehl expressed support for staff to begin developing the ISR and opposed the motions to delay the ISR to allow the MOU negotiations to continue.

In response to Council Member Buscaino's inquiry about using the 2018 MOU as the basis of an MOU or rule, Mr. Nastri responded that the 2018 MOU would not meet what the original intent was because so much time has elapsed. Staff recommends using the version of the MOU that was provided two weeks ago as the basis for the negotiations. There are new conditions that staff would like to include in the MOU.

COUNCIL MEMBER BUSCAINO WITHDREW HIS ORIGINAL MOTION. He expressed support for Vice Mayor Richardson's motion and requested an amendment for a draft of the MOU to be submitted to the Marine Port Committee within the first three months of the six-month period.

Mayor Pro Tem Rodriguez, expressed support for the MOU negotiations to continue for six months, noting that the negotiations are not open ended as there is a backstop in place. He emphasized the need for a full commitment with accountability, and a clear deadline. There is still a desire for partnership and collaboration.

Mayor Pro Tem Cacciotti expressed his concern with the six-month timeframe for the MOU negotiations and requested an amendment to reduce the deadline from six to four months

Chair Benoit concurred with the four-month timeframe, noting the need to consider rulemaking timelines and noticing requirements. Vice Chair Richardson agreed to the modification.

Mayor Pro Tem Rodriguez expressed concern that it may not be feasible for the ports to negotiate an agreement and obtain approval from the Harbor Board of Commissioners within four months. He noted that it would take focus away from the MOU.

Chair Benoit clarified that the ports will have the full six months to work on the negotiations and get approval from their Boards; however, at month four, staff can begin the rulemaking process.

Board Member Padilla-Campos asked how the public would be engaged in the process, to which Mr. Nastri responded that the process will be transparent, and all parties will have the opportunity to participate. He suggested that staff provide monthly updates to the Marine Ports Committee.

Mayor Pro Tem Cacciotti recommended an amendment to Vice Mayor Richardson's motion for staff to begin developing an ISR at four months instead of six months. Vice Mayor Richardson agreed to the modification.

MAYOR PRO TEM CACCIOTTI WITHDREW HIS  
SECOND TO THE MOTION BY BOARD MEMBER  
PADILLA-CAMPOS.

MOVED BY RICHARDSON, SECONDED BY DELGADO; AGENDA ITEM NO. 27 APPROVED DIRECTING STAFF TO BEGIN NEGOTIATIONS ON AN MOU WITH THE PORT OF LOS ANGELES AND PORT OF LONG BEACH EFFECTIVE IMMEDIATELY FOR A SIX-MONTH PERIOD AND INTERNAL DEVELOPMENT ON THE FRAMEWORK FOR AN ISR AT MONTH FOUR OF THE SIX-MONTH PERIOD; REQUESTING THAT A DRAFT MOU BE SUBMITTED TO THE MARINE PORT COMMITTEE WITHIN THE FIRST MONTH; AND ADOPTION OF THE FINAL MOU AGREEMENT FROM THE LOS ANGELES AND LONG BEACH BOARD OF HARBOR COMMISSIONERS BY THE SIX-MONTH DEADLINE; AND MONTHLY PROGRESS REPORTS ON THE MOU NEGOTIATIONS PROVIDED THROUGH THE MARINE PORTS COMMITTEE AND THE ISR DEVELOPMENT PROCESS TO BEGIN PUBLICLY AFTER SIX MONTHS THROUGH THE MOBILE SOURCE COMMITTEE IF THE MOU HAS NOT BEEN ADOPTED BY THE LOS ANGELES AND LONG BEACH BOARDS OF HARBOR COMMISSIONERS.

AYES: Bartlett, Benoit, Buscaino, Cacciotti, Delgado, Kracov, Kuehl, McCallon, Perez, Richardson, Rodriguez, and Rutherford

NOES: Padilla-Campos

ABSENT: None

Written Comments Submitted by:

One letter submitted on behalf of the following individuals and organizations: Andrea Hricko, USC Keck School of Medicine; Peter Warren, San Pedro & Peninsula Homeowners Coalition; Chuck Hart, San Pedro Peninsula Homeowners United, Inc.; Theral Golden, West Long Beach Association; Jesse N. Marquez, Coalition For A Safe Environment, Wilmington; Adrian Martinez Earthjustice; Taylor Thomas and Jan Victor Andasan, East Yard Communities for Environmental Justice; Alma Marquez, Center for

Community Action and Environmental Justice; Carlo De La Cruz, Sierra Club; Ricardo Pulido, Community Dreams Wilmington; Joe Gatlin, NAACP, San Pedro-Wilmington Branch #1069; Drew Wood, California Kids IAQ, Wilmington; Magali Sanchez-Hall, EMeRGE, Wilmington.

One letter submitted on behalf of the following individuals and organizations: Fernando Gaytan, Earthjustice; Jane Williams, California Communities Against Toxics; Faraz Rizvi, Center for Community Action and Environmental Justice; Jennifer Ganata, Communities for A Better Environment; Christopher Chavez, Coalition for Clean Air; Taylor Thomas, East Yards Communities for Environmental Justice; Yasmine Agelidis, LA County EV Bus & Truck Coalition.

Gene Seroka and Mario Cordero, Port of Los Angeles and Port of Long Beach  
Cristina Garcia, California State Assemblymember, 58<sup>th</sup> District  
Brad Rosenheim and Stuart Waldman, Valley Industry and Commerce Association  
Thomas Jelenic, Pacific Merchant Shipping Association  
Donna Duperron, David Fleming and Tracy Hernandez, BizFed (Los Angeles County Business Federation)  
Maria S. Salinas, Los Angeles Area Chamber of Commerce  
Rodney K. Pierini, California Automotive Wholesaler's Association  
Aaron Lowe, Auto Care Association  
Marc Carrel, Breathe Southern California  
Steve Hughes, HCS International  
Henry Rogers, Harbor Association of Industry & Commerce (HAIC)  
Elise Swanson, HAIC  
Jessica Lall, Central City Association of Los Angeles  
Susan Kay  
Andrea Hricko, USC Keck School of Medicine  
Rocio Maya, Maywood resident  
Shea Millan  
Meryle Hammatt, Riverside County resident  
David Marrett, PhD, Riverside County resident  
Michael Millan  
Pam Nelson

## **PUBLIC HEARING**

28. Determine That Proposed Rule 1147.1 – NO<sub>x</sub> Reductions from Aggregate Dryers, Is Exempt from CEQA and Adopt Rule 1147.1

Michael Krause, Planning and Rules Manager, gave the staff presentation on Item No. 28.

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



Suzanne Seivright-Sutherland, California Construction and Industrial Materials Association (CalCIMA), commented on the costs associated with the rule and noted the significant upgrades to facility designs, investments in new combustion equipment and land entitlement considerations. She noted that facilities are already making significant investments to increase compliance monitoring. However, the collaborative efforts by South Coast AQMD staff and industry has resulted in a rule that meets most stakeholder comments interests and CalCIMA appreciates staff taking the time to understand industry's perspectives and work toward solutions.

Board Member Kracov expressed appreciation to CalCIMA for their efforts in the rulemaking process and commented on the positive comments he received from members about staff working collaboratively with industry.

Russell Snyder, California Asphalt Paving Association, thanked staff for their professional and collaborative efforts during the rulemaking process, and commented on the emission reductions that will be achieved.

Ken Barker expressed appreciation to staff for their collaborative efforts with stakeholders, noting that the rule is efficient and effective for all.

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

MOVED BY CACCIOTTI, SECONDED BY KUEHL, AGENDA ITEM NO. 28 APPROVED AS RECOMMENDED, TO ADOPT RESOLUTION NO. 21-18 DETERMINING THAT PROPOSED RULE 1147.1 – NO<sub>x</sub> REDUCTIONS FROM AGGREGATE DRYERS, IS EXEMPT FROM THE REQUIREMENTS OF CEQA AND ADOPTING PROPOSED RULE 1147.1– NO<sub>x</sub> REDUCTIONS FROM AGGREGATE DRYERS, BY THE FOLLOWING VOTE:

AYES: Bartlett, Benoit, Cacciotti, Delgado, Kracov, Kuehl, McCallon, Padilla-Campos, Perez, Richardson, Rodriguez, and Rutherford

NOES: None

ABSENT: Buscaino,

## **CLOSED SESSION**

The Board recessed to closed session at 2:45 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 South Coast AQMD 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 re: Exide Technologies, Inc., U.S. Bankruptcy Court, District of Delaware, Case No. 13-11482 (KJC) (Bankruptcy Case); Delaware District Court, Case No.: 19-00891 (Appellate Case); United States Court of Appeals, Third Circuit, Case No. 20-1858;
- In re: Exide Holdings Inc., U.S. Bankruptcy Court, District of Delaware, Case No. 20-11157 (CSS) (Bankruptcy Case); and
- Terry Lee Williams v. SCAQMD, Los Angeles Superior Court Case No. 19STCV37587.

Following closed session, Bayron Gilchrist, General Counsel, 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 Bayron Gilchrist, General Counsel at 3:10 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on August 6, 2021.

Respectfully Submitted,

Faye Thomas  
Clerk of the Boards

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

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Ben J. Benoit, Chair

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**ACRONYMS**

AQMP = Air Quality Management Plan  
CARB = California Air Resources Board  
CEQA = California Environmental Quality Act  
FY = Fiscal Year  
MSRC = Mobile Source (Air Pollution Reduction) Review Committee  
NOx = Oxides of Nitrogen  
PM = Particulate Matter  
RFP = Request for Proposals  
U.S. EPA = United States Environmental Protection Agency  
VOC = Volatile Organic Compound