

BOARD MEETING DATE: February 3, 2023

AGENDA NO. 2

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the January 6, 2023
Board Meeting.

RECOMMENDED ACTION:

Approve the January 6, 2023 Board Meeting Minutes.

Faye Thomas
Clerk of the Boards

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FRIDAY, JANUARY 6, 2023

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

Ben J. Benoit, Chair
Cities of Riverside County

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

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

Supervisor Andrew Do
County of Orange

Gideon Kracov
Governor's Appointee

Mayor Larry McCallon
Cities of San Bernardino County

Veronica Padilla-Campos
Speaker of the Assembly Appointee

Council Member Nithya Raman
City of Los Angeles

Mayor Rex Richardson
Cities of Los Angeles County – Western Region

Council Member Carlos Rodriguez
Cities of Orange County

Supervisor Janice Rutherford
County of San Bernardino

Members absent:

Supervisor Holly J. Mitchell
County of Los Angeles

Supervisor V. Manuel Perez
County of Riverside

For additional details of the Governing Board Meeting, please refer to the recording of the Webcast at: Live Webcast (aqmd.gov)

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

- Pledge of Allegiance: Led by Board Member Kracov
- Roll Call
- Opening Comments

Chair Benoit commented on the memorial service today for Isaiah Cordero, a Riverside County Sheriff's Deputy who was recently killed in the line of duty. He requested that the meeting be adjourned in honor of Deputy Cordero.

Mayor Richardson announced that this was his last Board Meeting as he is resigning to focus on his new role as the mayor of Long Beach. He expressed appreciation for the opportunity to work with the Board.

Council Member Cacciotti shared photos of an electric fireplace and e-bikes as part of his visit to a warehouse near Compton. He also shared photos of a lawn and garden equipment demonstration event and noted that the South Coast AQMD's Commercial Electric Lawn and Garden Incentive & Exchange Program is anticipated to resume in March of this year. He further added that he and staff are available to any city interested in having a demonstration event.

Wayne Nastri, Executive Officer, stated that today U.S. EPA had announced its proposed decision to revise the annual air quality standard for PM2.5. Staff will review U.S. EPA's proposal and report back to the Board on its implications for the South Coast Air Basin and any actions that may need to be taken.

- Election of Chair

The floor was opened for nominations.

CHAIR BENOIT NOMINATED SENATOR (RET.) VANESSA DELGADO TO FILL HIS UNEXPIRED TERM. MAYOR RICHARDSON SECONDED THE NOMINATION. THERE BEING NO FURTHER NOMINATIONS AND NO OBJECTIONS, THE NOMINATIONS WERE CLOSED. THE BOARD VOTED UNANIMOUSLY, WITH SUPERVISORS MITCHELL AND PEREZ ABSENT, TO ELECT SENATOR DELGADO AS CHAIR FOR THE TERM FEBRUARY 2023 THROUGH JANUARY 2024.

- Election of Vice Chair

The floor was opened for nominations.

MAYOR MCCALLON NOMINATED COUNCIL MEMBER MICHAEL CACCIOTTI TO FILL THE UNEXPIRED TERM OF VICE CHAIR DELGADO. COUNCIL MEMBER RAMAN SECONDED THE NOMINATION. THERE BEING NO FURTHER NOMINATIONS AND NO OBJECTIONS, THE NOMINATIONS WERE CLOSED. THE BOARD VOTED UNANIMOUSLY, WITH SUPERVISORS MITCHELL AND PEREZ ABSENT, TO ELECT COUNCIL MEMBER CACCIOTTI AS VICE CHAIR FOR THE TERM FEBRUARY 2023 THROUGH JANUARY 2024.

- Presentation to Outgoing Board Member Rex Richardson

Chair Benoit presented a crystal award to Rex Richardson for his service on the Board from February 2021 to January 2023.

Board members expressed appreciation for Mayor Richardson's public service and shared their sentiments about working with him on the Board. Mayor Richardson stated that it has been a pleasure serving on the Board and that as the mayor of Long Beach he will continue to work with South Coast AQMD to clean the air for our region.

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

The Public Comment Period was opened. The following individuals addressed the Board.

Fernando Gaytan, Earthjustice
Chris Chavez, Coalition for Clean Air

These commenters congratulated Mayor Richardson and thanked Chair Benoit for his leadership on the Board. They also congratulated the Chair-elect and Vice Chair-elect and are looking forward to working with them to focus on deploying the most advanced zero-emission solutions and ensure that important rules, such as the railyards and Ports indirect source rules and other control measures, are passed to protect public health and achieve cleaner air for the South Coast region. For additional details, please refer to the [Webcast](#) beginning at 31:42.

Joaquín Beltrán, Downey resident and Green Zone Act author, commented on the negative health impacts from the COVID-19 pandemic with a call to action for the South Coast AQMD to help with protection protocols, including the distribution of high-quality masks and ventilation/filtration systems for better indoor air quality, to end the community transmission of the virus. For additional details, please refer to the [Webcast](#) beginning at 36:05.

Yassi Kavezade, Sierra Club, echoed the sentiments of the previous speakers regarding the Board's newly elected leadership. She emphasized the important role the new leadership will have in carrying out how the 2022 AQMP is implemented. She also expressed appreciation for accommodating the public by continuing to offer remote access to meetings. For additional details please refer to the [Webcast](#) beginning at 39:07.

Harvey Eder, Public Solar Power Coalition, echoed the previous speaker's comments about the Chair- and Vice Chair-elect and commented on events that occurred when he attempted to file documents in federal court. He expressed concerns that the South Coast AQMD's AQMP and CARB's Scoping Plan do not include an evaluation for solar and ignore the Solar New Deal. For additional details please refer to the [Webcast](#) beginning at 41:25.

There being no further requests to speak, the Public Comment Period was closed.



CONSENT AND BOARD CALENDAR

Items 1 Through 3 – Action Items/No Fiscal Impact

1. Comply with AB 361 Requirements to Allow South Coast AQMD Board and South Coast AQMD Brown Act Committees to Continue to Meet Remotely
2. Approve Minutes of December 2, 2022 Board Meeting
3. Set Public Hearings February 3, 2023 to Consider Adoption of and/or Amendments to South Coast AQMD Rules and Regulations:

Determine That Proposed Amended Rule 1148.2 – Notification and Reporting Requirements for Oil and Gas Wells and Chemical Suppliers, Is Exempt from CEQA and Amend Rule 1148.2

Items 4 through 6 -- Budget/Fiscal Impact

4. Amend FY 22-23 Budget by Adding and Deleting Positions Throughout the Agency to Address Operational Needs, and Adopt a New Class Specification
5. Issue RFP and Approve Contract Modifications as Approved by MSRC
6. Execute Contract for Biennial Audit of Motor Vehicle Registration Revenues for FYs 2019-20 and 2020-21

Items 7 through 12 – Information Only/Receive and File

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

Items 13 through 15 -- Reports for Committees and CARB

Note: The Legislative, Mobile Source, Stationary Source, and Technology Committees did not meet in December 2022. The next regularly scheduled meeting of the Legislative Committee is January 13, 2023, and the Mobile Source, Stationary Source and Technology Committees on January 20, 2023.

13. Administrative Committee
14. Mobile Source Air Pollution Reduction Review Committee
15. California Air Resources Board Monthly Report
16. Items Deferred from Consent and Board Calendar

There were no items pulled for discussion.



Agenda Item Nos. 1-15 were opened for public comment; and the following individual addressed the Board.

Harvey Eder stated that the AQMP had not been evaluated for solar and commented on taking legal action to address this issue. He emphasized that solar energy is a solution to mitigate the impacts of climate change on the ecosystem. For additional details, please refer to the Webcast beginning at 45:25.

There being no further requests to speak, the public comment period for Agenda Item Nos. 1-15 was closed.

Board Action (Items 1–15)

MOVED BY CACCIOTTI, SECONDED BY DELGADO
TO APPROVE AGENDA ITEMS 1 THROUGH 15 AS
RECOMMENDED TO:

ADOPT RESOLUTION NO. 23-1, RECOGNIZING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020 AND THAT LOCAL OFFICIALS CONTINUE TO RECOMMEND MEASURES TO PROMOTE SOCIAL DISTANCING; AND AUTHORIZING

FULLY OR PARTIALLY REMOTE TELECONFERENCE MEETINGS OF THE GOVERNING BOARD OF THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, AND SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT COMMITTEES SUBJECT TO THE BROWN ACT, FOR THE PERIOD JANUARY 6, 2023 THROUGH FEBRUARY 5, 2023 PURSUANT TO PROVISIONS OF THE BROWN ACT; AND

RECEIVE AND FILE THE COMMITTEE REPORTS AND CARB REPORT.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: Benoit, Cacciotti, Delgado, Kracov, Kuehl, McCallon, Padilla-Campos, Raman, Rodriguez, and Rutherford

NOES: None

ABSENT: Mitchell, Perez, and Richardson



17. Determine That Proposed Amended Rule 1106 – Marine and Pleasure Craft Coatings, and Proposed Amended Rule 1107 – Coating of Metal Parts and Products, Are Exempt From CEQA; and Amend Rules 1106 and 1107

Heather Farr, Planning and Rules Manager, gave the staff presentation on this item.

Agenda Item No. 17 was opened for public comment; and the following individuals addressed the Board.

For additional details please refer to the [Webcast](#) beginning at 54:43.

Rita Loof, RadTech International
Howard Ragin, UV Specialties, LLC
Kevin Joesel, AMS Spectral UV

These commenters expressed opposition to the staff proposal and provided the following comments:

- Object to the removal of the references to ASTM D7767 and definition of Energy Curable Coatings
- Removal of the definition is premature because U.S. EPA has not issued a disapproval but rather has asked for public comments on a proposed disapproval
- At the very least, staff should retain the definition of Energy Curable Coatings
- Proposed amendments will bring uncertainty and have a negative impact on the UV/EB/LED industry with no environmental benefit
- Neither the South Coast AQMD or U.S. EPA have provided any other alternative to the test method

- Disclosing formulation data as an alternative approach to verify VOC content puts proprietary data at risk
- Urge the Board to vote no on the rule adoption or delay to allow U.S. EPA review of the UV/EB/LED industry comments
- Request for staff to support industry efforts to obtain U.S. EPA approval of ASTM D7767-11

There being no further requests to speak, the public comment period for Agenda Item No. 17 was closed.

Mr. Nastri clarified that staff is being proactive in proposing amendments to Rules 1106 and 1107 in response to U.S. EPA's proposed limited disapproval to preempt formal disapproval and sanctions. He also emphasized that staff takes proprietary information seriously to ensure that this type of information is not disclosed. For additional details please refer to the [Webcast](#) beginning at 1:04:04.

Dr. Sarah Rees, Deputy Executive Officer, Planning, Rule Development and Implementation, explained that U.S. EPA originally proposed full approval of Rule 1106 but issued the proposed limited disapproval on the basis that it had recently been brought to their attention that the rules referenced a test method that was not EPA-approved. Staff has been in subsequent discussions with U.S. EPA to raise the issue and verify what actions need to be taken to avoid sanctions being imposed. For additional details please refer to the [Webcast](#) beginning at 1:06:00.

Supervisor Rutherford acknowledged understanding the reason for deleting the test method but asked that her colleagues consider keeping the Energy Curable Coatings definition in the rules, noting that if U.S. EPA changes the definition later, the rules can be revised. Staff agreed to retain the definition in the rules to address industry concerns. For additional details please refer to the [Webcast](#) beginning at 1:07:15.

In response to Supervisor Do's inquiry about how U.S. EPA conveyed its disapproval of Rule 1106, Mr. Nastri explained that staff submitted a letter to U.S. EPA asking if the test method could be approved. U.S. EPA did not respond to the letter but proposed a partial SIP disapproval of Rule 1106 when they became aware that the test method referenced in the rule was not EPA-approved and therefore could not be used to ensure compliance. He further added that the use of formulation data to calculate VOC content is an alternative approach for compliance verification; however, the UV/EB/LED industry have expressed concerns with the alternative. For additional details please refer to the [Webcast](#) beginning at 1:09:50

Supervisor Do inquired about the timeline for U.S. EPA to take final action, how the timeline corresponds with the timing for adopting the rule amendments, and what types of sanctions would be imposed.

Dr. Rees explained that U.S. EPA has not indicated a deadline for finalizing the disapproval. However, once U.S. EPA issues its final disapproval the automatic sanctions clock starts. First, offset sanctions would be triggered 18 months after the effective date of the final disapproval and highway funding sanctions would be triggered six months after the offset sanctions are imposed. U.S. EPA would also be required to promulgate a Federal Implementation Plan within 24 months of the disapproval effective date. Due to

the likelihood that U.S. EPA will proceed with a final disapproval and the severity of the sanctions if the deficiency is not corrected within the timeline, staff is proposing amendments to the rules now because once the final disapproval is issued, it becomes a challenge to get out from under the sanctions. The Clean Air Act also requires a non-discretionary 18 months after final disapproval for the sanctions to adhere. For additional details please refer to the [Webcast](#) beginning at 1:19:07.

Staff displayed on screen the definition for Energy Curable Coatings that would be re-inserted into the proposed amended rules. Supervisor Rutherford thanked staff for putting the definition back into the rules. She asked whether U.S. EPA had responded to public comments they have received on their proposed disapproval. Mr. Nastri responded that to staff's knowledge they had not yet responded. For additional details please refer to the [Webcast](#) beginning at 1:22:00.

Council Member Cacciotti asked staff to clarify the alternative method to calculate the VOC content of products and how compliance is demonstrated using this approach. For additional details please refer to the [Webcast](#) beginning at 1:22:59.

Ms. Farr explained that the manufacturer's formulation data is used to confirm VOC content when there is no other appropriate test method. Manufacturers calculate the VOC content of the coating using the VOC content of the raw materials that go into the product. The contents are indicated on the product label and material safety data sheets so that it is publicly available. Staff has relied on laboratory testing of products collected in the field to determine compliance with VOC limits. For additional details please refer to the [Webcast](#) beginning at 1:23:18.

In response to Council Member Cacciotti's request to clarify what sanctions will be imposed if the deficiency is not corrected and approved by U.S. EPA within the applicable timelines, Dr. Rees explained that the first sanction would be higher offset ratios for new or modified permitted sources to get their permit issued followed by potential loss of billions of dollars in federal highway funding for the entire South Coast region. For additional details please refer to the [Webcast](#) beginning at 1:24:40.

Chair Benoit emphasized the significant loss of highway funding for the entire region that could occur if the rules were not amended within the imposed timelines following U.S. EPA disapproval. For additional details please refer to the [Webcast](#) beginning at 1:25:49.

Board Action (Agenda Item 17)

MOVED BY MCCALLON, SECONDED BY CACCIOTTI TO APPROVE AGENDA ITEM NO. 17 AS RECOMMENDED, WITH THE MODIFICATION TO KEEP THE DEFINITION OF "ENERGY CURABLE COATINGS" AS SPECIFIED IN PARAGRAPH (d)(8) IN PROPOSED AMENDED RULE 1106 AND PARAGRAPH (b)(15) IN PROPOSED AMENDED RULE 1107 WHICH STATES "ENERGY CURABLE COATINGS are single-component reactive products that cure upon exposure to visible-light, ultra-violet light, or an electron beam."; AND ADOPT RESOLUTION NO. 23-2:

DETERMINING THAT PROPOSED AMENDED RULE 1106 – MARINE AND PLEASURE CRAFT COATINGS, AND PROPOSED AMENDED RULE 1107 – COATING OF METAL PARTS AND PRODUCTS, ARE EXEMPT FROM CEQA AND AMENDING RULES 1106 AND 1107.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: Benoit, Cacciotti, Delgado, Kracov, McCallon, Padilla-Campos, Raman, and Rutherford

NOES: Do and Rodriguez

ABSENT: Mitchell, Perez, and Richardson



18. Determine That Proposed Amended Rule 1118 – Control of Emissions from Refinery Flares, Is Exempt from CEQA; and Amend Rule 1118

Mike Krause, Assistant Deputy Executive Officer/Planning, Rule Development and Implementation, gave the staff presentation on this item.

Agenda Item No. 18 was opened for public comment. There being no requests to speak, the public comment period for Agenda Item No. 18 was closed.

Mr. Nastri explained that the Rule 1118 amendments are in response to U.S. EPA's final limited disapproval and stands out as an example of the urgency with which staff must act to correct the deficiencies before the imposed deadlines or face the possibility of federal penalties. He commented on a recent meeting that was held with several air districts and U.S. EPA Region 9. During that meeting, he expressed concern that U.S. EPA had not communicated their issues with Rule 1118 during the rulemaking process. The discussion highlighted the need for greater involvement and more open communication up front. For additional details please refer to the [Webcast](#) beginning at 1:31:00.

Board Action (Agenda Item 18)

MOVED BY CACCIOTTI, SECONDED BY MCCALLON TO APPROVE AGENDA ITEM NO. 18 AS RECOMMENDED AND ADOPT RESOLUTION NO. 23-3:

DETERMINING THAT PROPOSED AMENDED RULE 1118 – CONTROL OF EMISSIONS FROM REFINERY FLARES, IS EXEMPT FROM CEQA; AND

AMENDING RULE 1118.

THE MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: Benoit, Cacciotti, Delgado, Do, Kracov,
McCallon, Padilla-Campos, Raman,
Rodriguez, and Rutherford

NOES: None

ABSENT: Mitchell, Perez, and Richardson



CLOSED SESSION

The Board recessed to closed session at 10:32 a.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:

Natural Resources Defense Council, et al. v. City of Los Angeles, et al., San Diego Superior Court, Case No. 37-2021-00023385-CU-TT-CTL (China Shipping Case) (transferred from Los Angeles Superior Court, Case No. 20STCP02985); Fourth District Court of Appeal, Division One, No. D080902; and

East Yard Communities for Environmental Justice v. South Coast Air Quality Management District, (Refinery monitoring lawsuit) Los Angeles County Superior Court, Case No. 22STCP04398.

CONFERENCE WITH LEGAL COUNSEL – INITIATING LITIGATION

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

Following closed session, Bayron Gilchrist, General Counsel, announced that a report of any reportable actions taken in closed session will be provided to the Clerk of the Board.

ADJOURNMENT

There being no further business, the meeting was adjourned by Mr. Gilchrist at 10:51 a.m. At the request of Chair Benoit, the meeting was closed in memory of Deputy Isaiah Cordero.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on January 6, 2023.

Respectfully Submitted,

Faye Thomas
Clerk of the Boards

Date Minutes Approved: _____

Ben J. Benoit, Chair

ACRONYMS

AQMP = Air Quality Management Plan
CARB = California Air Resources Board
CEQA = California Environmental Quality Act
FY = Fiscal Year
SIP = State Implementation Plan
UV/EB/LED = Ultraviolet/Electron Beam/Light Emitting Diode