

BOARD MEETING DATE: October 6, 2023

AGENDA NO. 1

MINUTES: Governing Board Monthly Meeting

SYNOPSIS: Attached are the Minutes of the September 1, 2023
Board Meeting.

RECOMMENDED ACTION:

Approve the September 1, 2023 Board Meeting Minutes.

Faye Thomas
Clerk of the Boards

FT

FRIDAY, SEPTEMBER 1, 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:

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

Councilmember Michael A. Cacciotti, Vice Chair
Cities of Los Angeles County – Eastern Region

Supervisor Curt Hagman (Left the meeting at 12:15 p.m.)
County of San Bernardino

Gideon Kracov
Governor's Appointee

Mayor Larry McCallon (Left the meeting at 11:22 a.m.)
Cities of San Bernardino County

Veronica Padilla-Campos (Left the meeting at 11:17 a.m.)
Speaker of the Assembly Appointee

Supervisor V. Manuel Perez (Left the meeting at 11:22 a.m.)
County of Riverside

Councilmember Nithya Raman
City of Los Angeles

Councilmember Carlos Rodriguez (Left the meeting at 12:59 p.m.)
Cities of Orange County

Councilmember José Luis Solache
Cities of Los Angeles County – Western Region

Absent: Mayor Lock Dawson
Cities of Riverside County

Supervisor Andrew Do
County of Orange

Supervisor Holly J. Mitchell
County of Los Angeles

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 Delgado called the meeting to order at 9:07 a.m.

- Pledge of Allegiance: Led by Councilmember Rodriguez
- Roll Call*
Councilmember Solache arrived at 9:15 a.m.
- Opening Comments

Executive Officer Wayne Nastri announced that the 9th Annual Environmental Justice Conference would be held in-person on Wednesday, September 13, 2023 at the Riverside Convention Center and that the October Board Meeting would be held at Los Angeles Valley College.*

Vice Chair Cacciotti shared photos of Koko Panossian, Deputy Director of the City of Glendale Community Services & Parks, and David Ono, Sr. AQ Engineering Manager at South Coast AQMD, at an AYSO Area 1C soccer coaches meeting. Vice Chair Cacciotti commented that, according to Mr. Panossian, the City of Glendale is participating in the South Coast AQMD Commercial Lawn and Garden Equipment Incentive Program and that the City will save approximately \$195,000 by transitioning to all electric equipment for maintenance of their city parks and properties.*

Chair Delgado thanked Mark Henninger, a Manager in Information Management who was retiring, and presented him with a crystal award in recognition of his dedicated service to the South Coast AQMD for 35 years.*

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

The Public Comment Period on Non-Agenda Items was opened. The following individuals addressed the Board.

Brenda Soto, People’s Collective for Environmental Justice, was speaking off topic on Agenda Item No. 33 and was redirected to comment during the public comment period for that item.

Sarah Jepson, SCAG, expressed gratitude to South Coast AQMD staff for their contributions to the interagency coordination efforts to resolve the transportation conformity lockdown, and thanked the Board for approving the request to reclassify the

* Due to technical issues, this portion of the meeting is not available on the webcast.

Coachella Valley for the 2008 8-hour ozone standard and update the Motor Vehicle Emissions Budgets last November. For additional details, please refer to the [Webcast](#) beginning at 4:42.

Monty Rowan, Marina Del Rey resident, expressed concern with the handling of the asbestos remediation process at the Dolphin Marina Apartments construction project. For additional details, please refer to the Webcast beginning at 7:01.

Mr. Nastri confirmed that staff is aware of this issue and has been working closely with Supervisor Mitchell's office. Terrence Mann, Deputy Executive Officer/Compliance & Enforcement, added that staff has inspected the apartment complex numerous times, but no asbestos violations have been identified. Inspectors responded to all complaints from residents of the complex and reviewed the asbestos surveys that were prepared by a third party Certified Asbestos Consultant (CAC). No issues were identified with those surveys or with the subsequent abatement work, but staff will continue to closely monitor the project and respond to all complaints.

Dawny'all Heyardi, Pacific Environment, commented on the record cargo shipping traffic at the Ports and its impact on frontline communities to highlight the importance of the Ports ISR, which is scheduled for consideration by the Board later this year. He emphasized the need for the Ports ISR to set mandatory stringent emission caps and urged support of infrastructure for shore power for all categories of vessels, as well as retrofits and offshore charging stations for ships. For additional details, please refer to the [Webcast](#) beginning at 11:41.

Darby Osnaya, Colton resident, emphasized the need to acknowledge and honor the Native American communities, people of color that have built up Southern California, as well as the public commenters who take time out of their schedules to participate in these meetings. For additional details, please refer to the [Webcast](#) beginning at 14:54.

Harvey Eder, Public Solar Power Coalition, expressed disappointment that the Sunshot Initiative and Solar New Deal were not evaluated by U.S. EPA, CARB, and South Coast AQMD and commented on the 2022 AQMP. For additional details, please refer to the [Webcast](#) beginning at 16:57.

Ranji George, a member of the public, expressed concern that funding for hydrogen technologies continues to be limited, causing hydrogen technologies to fall behind battery electric and other technologies. He urged the Board to encourage CARB, CEC, CPUC and the Governor to increase funding for hydrogen technologies; and form a task force to address hydrogen supply issues as well as the availability and reliability of hydrogen dispensing stations. For additional details, please refer to the [Webcast](#) beginning at 20:43.

Reuben Franco, Orange County Hispanic Chamber of Commerce, was speaking off topic on Agenda Item No. 2 and was redirected to comment during the public comment period for that item.

Maria Serafin, Wilmington resident, via a Spanish interpreter commented on the adverse health impacts to the community from air pollution from the refineries and the large storage tanks near the refineries. For additional details, please refer to the [Webcast](#) beginning at 25:22.

There being no further requests to speak, the Public Comment Period on non-agenda items was closed.



CONSENT AND BOARD CALENDAR

Chair Delgado moved Agenda Item No. 36 to the Consent Calendar.

Items 1 through 4 – Action Items/No Fiscal Impact

1. Approve Minutes of August 4, 2023 Board Meeting
2. Set Public Hearing October 6, 2023 to Consider Adoption of and/or Amendments to South Coast AQMD Rules and Regulations:
Determine That Proposed Amended Rule 1405 – Control of Ethylene Oxide Emissions from Sterilization and Related Operations, Is Exempt from CEQA; and Amend Rule 1405
3. Request Approval of Proposed Membership Roster for the AQMP Advisory Group
4. Request Approval of Proposed Membership Roster for Scientific, Technical and Modeling Peer Review Advisory Group

Items 5 through 16 – Budget/Fiscal Impact

5. Issue RFP and Execute Contracts for Clean Technology Truck Loaner Program Within Four AB 617 Communities
6. Approve Additional Funding for Residential Electric Vehicle Charging Incentive Program
7. Recognize Revenue, Appropriate Funds, Issue Solicitations and Purchase Orders for Air Monitoring Equipment
8. Transfer and Appropriate Funds for Air Monitoring Programs and Issue Purchase Order(s) for Two Vehicles
9. Appropriate Funds, Issue Solicitations and Purchase Orders for Air Monitoring and Laboratory Equipment
10. Transfer and Appropriate Funds for Independent Audit of Rule 1180 Fenceline Air Monitoring Network
11. Appropriate Funds and Issue Solicitations and Purchase Orders to Implement Air Quality Community Training in Eastern Coachella Valley

12. Appropriate Funds from the Undesignated (Unassigned) Fund Balance for Permitting Enhancement Program
13. Execute Contract(s) for Legislative Representation in Sacramento, California
14. Approve Revisions to Class Specifications; Amend Salary Resolution to Revise Salaries as Part of Revision Process; Amend FY 2023-24 Budget By Adding and Deleting Positions to Address Operational Needs
15. Appropriate Funds and Amend Contract with Strumwasser & Woocher, LLP to Provide Representation and Advice to South Coast AQMD Hearing Board
16. Approve Contract Awards as Approved by MSRC
36. Execute Contract for Independent Audit Services for FYs Ending June 30, 2023, 2024, and 2025 (*This item was moved from Other Business to the Consent Calendar*)

Items 17 through 25 – Information Only/Receive and File

17. Legislative, Public Affairs and Media Report
18. Hearing Board Report
19. Civil Filings and Civil Penalties Report
20. Intergovernmental Review of Environmental Documents and CEQA Lead Agency Projects
21. Rule and Control Measure Forecast
22. Report of RFQs/RFPs Scheduled for Release in September
23. FY 2022-23 Contract Activity
24. Status Report on Major Ongoing and Upcoming Projects for Information Management
25. Status Report on Regulation XIII – New Source Review

Items 26 through 31 – Reports for Committees and CARB

The July and August meetings of the CARB Board were cancelled.

26. Administrative Committee
27. Legislative Committee
28. Mobile Source Committee
29. Stationary Source Committee
30. Technology Committee
31. Mobile Source Air Pollution Reduction Review Committee
32. Items Deferred from Consent and Board Calendar
Agenda Item No. 2 was pulled for comment or discussion.



The public comment period was opened for Agenda Item Nos. 1, 3-31, and No. 36.

Magali Sanchez Hall, Communities for a Better Environment/Emerge/Wilmington resident, was speaking off topic on Agenda Item No. 34 and redirected to comment during the public comment period for that item. For additional details, please refer to the [Webcast](#) beginning at 30:27.

Agenda Item No. 5 – Issue RFP and Execute Contracts for Clean Technology Truck Loaner Program Within Four AB 617 Communities

Ranji George expressed support for the program but requested that more funds be set aside expressly for hydrogen trucks. He expressed disappointment with the limited funding that has been allocated to hydrogen fuel cell technology over the last 30 years and pointed out the drawbacks of EV batteries such as the weight of the battery pack required to power the vehicle and inevitable need to recycle the batteries. He urged the Board to provide more support for the use of hydrogen technologies. For additional details, please refer to the [Webcast](#) beginning at 32:21.

Theral Golden, West Long Beach Association, expressed support for the truck rental program but emphasized the need to present a plan. For additional details, please refer to the [Webcast](#) beginning at 40:47.

Marven Norman, Center for Community Action and Environmental Justice and San Bernardino resident, expressed support for the program but emphasized the need to ensure that a generous number of eligible dealers are in the Inland Empire for truck drivers in the San Bernardino, Muscoy area that want to participate in the program. He noted that the state of California has already increased the weight limit for ZEV trucks to account for the weight of batteries. For additional details, please refer to the [Webcast](#) beginning at 57:02.

Agenda Item No. 21 – Rule and Control Measure Forecast

Topher Mathers, Active San Gabriel Valley, urged the Board to direct staff to implement the 2022 AQMP without further delay by prioritizing zero-emission standards for furnace and water heaters and scheduling the associated rulemaking efforts for adoption in 2024. For additional details, please refer to the [Webcast](#) beginning at 36:10. (Written Comments Submitted)

Harvey Eder expressed support for Ranji George's comments on the supply of hydrogen. He emphasized the need to evaluate the Solar New Deal, expressed concerns with difficulties viewing presentations on his phone via Zoom and with the public process. For additional details, please refer to the [Webcast](#) beginning at 38:16.

There being no further requests to speak, the public comment period was closed for Agenda Item Nos. 1, 3-31, and No. 36.



Written Comments Submitted Regarding Agenda Item No. 21:

One letter signed by the following organizations: Active San Gabriel Valley, Ban SUP (Single Use Plastic), Day One, Earthjustice, Los Angeles Climate Reality Project, RMI, San Fernando Climate Reality Project, Sierra Club, Sustainable Claremont

Board Action (Items 1, 3-31, and Item 36)

MOVED BY CACCIOTTI, SECONDED BY PEREZ TO APPROVE AGENDA ITEMS 1, 3 THROUGH 31 AND ITEM 36 AS RECOMMENDED AND RECEIVE AND FILE THE COMMITTEE AND MSRC REPORTS.

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Hagman, Kracov, McCallon, Padilla-Campos, Perez, Raman, Rodriguez, and Solache

NOES: None

ABSTAIN: None

ABSENT: Lock Dawson, Do, and Mitchell



32. Item Pulled for Comments or Discussion

Agenda Item No. 2 – Set Hearing for Proposed Amended Rule 1405

The public comment period was opened for Agenda Item No. 2.

For additional details regarding the following comments, please refer to the [Webcast](#) beginning at 34:20.

Jose Hernandez, a member of the public
Yasi Milani, Dana Point resident

These commenters described the importance of having properly sterilized devices for the surgery/medical treatments they received as patients. They expressed concern that PAR 1405 could cause disruption to the availability of sterile medical equipment and urged the Board to consider the safety of patients in this rulemaking.

Sam Chung, California Life Sciences
Claire Conlon, Biocom California
Darbi Gottlieb, AdvaMed
Maya Lopez Grasse, Alston & Bird
Richard DeMont, Ramboll on behalf of Sterigenics
Victor Reyes, Valley Industry & Commerce Association
Kevin Wagner, Sterigenics

These speakers commented/requested the following:

- Cautioned that the proposed amendments could cause disruption to the supply chain and impact the availability of sterile products.
- Questioned the reliability of fenceline monitoring data
- Other sources may contribute to fenceline monitoring testing and trigger curtailment provisions even when the facility is operated within permitted conditions.
- Ability to meet implementation provisions and timelines makes compliance difficult to achieve.
- Medical technology and care sector have already invested significant funds to install enhanced emissions controls.
- De facto throughput limits disproportionately affect large facilities.
- Delay the Public Hearing for 120 days and direct staff to work with industry to address concerns.
- Suspend PAR 1405 rulemaking pending the completion of U.S. EPA's court-mandated regulation and OEHHA's risk levels update that may impose conflicting requirements.
- Already going through the HRA process and will have implemented permanent total enclosures well ahead of the deadlines contemplated by Rule 1402 and PAR 1405.

Jesse Marquez, Coalition for a Safer Environment, expressed support for the proposed amendments but was concerned that staff did not provide a more comprehensive description of the public health impacts of Ethylene Oxide and did not conduct a review of past accidents and corrective actions taken. He disagreed with the staff proposal to create a two-tiered provision for warehouses. For additional details, please refer to the [Webcast](#) beginning at 1:00:43.

Kora Booker, a member of the public, commented on the need to ensure PAR 1405 is aligned to the best interest of both public health and patient well being. For additional details, please refer to the [Webcast](#) at 1:03:27.

Esther Hernandez, Wilmington resident, spoke off topic on Agenda Item No. 34. For additional details, please refer to the [Webcast](#) beginning at 1:04:37.

Jane Williams, California Communities Against Toxics, commented on concerns about the toxicity of the Ethylene Oxide compound and emphasized the need for fenceline monitoring. She pointed out that alternatives to Ethylene Oxide are available and she would like to see the Federal Drug Administration approve these alternatives. Ms. Williams suggested that OEHHA provide a presentation to the South Coast AQMD Board on the

toxicity of Ethylene Oxide after they have updated the risk values for the compound. For additional details, please refer to the [Webcast](#) 1:05:44

Rueben Franco, Orange County Hispanic Chamber of Commerce, expressed concerns about the impact to the local economy and supply chains, noting that businesses in the medical technology and care providers sector are critical to the economy of our communities. For additional details, please refer to the [Webcast](#) beginning at 1:07:55.

There being no further requests to speak, the public comment period was closed for Agenda Item No. 2.



Mayor McCallon commented on compliance actions that staff took in 2022 under Rule 1402 and the AB 2588 Air Toxics Hotspots Program to reduce health risks from Sterigenics US, LLC. An Early Action Reduction Plan under Rule 1402 required that Sterigenics set enforceable timelines for completion of the permanent total enclosures and other measures that are far ahead of deadlines contemplated in Rule 1402 and Rule 1405. He expressed concern that PAR 1405 would impose a throughput limit on larger facilities, curtailment provisions could be easily triggered by events outside of a facility's control, unproven source testing that has not been established for this equipment, and that the requirements put the vast majority of needed local health care capacity at risk. Mayor McCallon recommended that the set hearing be moved to December to allow additional time to resolve these key issues, with monthly progress reports to the Stationary Source Committee. For additional details, please refer to the [Webcast](#) beginning at 1:09:14.

Supervisor Hagman, inquired about recent developments on U.S. EPA's rulemaking for Ethylene Oxide. He asked whether PAR 1405 could potentially conflict with U.S. EPA's regulation and the impacts of curtailment. Given there are still many questions to address, he concurred with Mayor McCallon that more time is needed. For additional details, please refer to the [Webcast](#) beginning at 1:11:19.

Sarah Rees, Deputy Executive Officer/Planning, Rule Development and Implementation, commented that a consent decree was recently approved mandating that U.S. EPA finalize its rulemaking on commercial sterilization standards by March 1, 2024. For Additional information, please refer to the [Webcast](#) 1:11:41

Mr. Nastri explained that most California regulations are adopted in advance of the federal government and that local and California rules are generally more stringent than federal regulations for air toxics. He noted that staff has been working with Sterigenics for the past year and a half and during that time staff has not been advised of a shortage of sterilized medical products. He commented on the AB 2588 process and the effectiveness of mobile monitoring in identifying hotspots in communities surrounding Ethylene Oxide facilities. However, the AB 2588 process is intensive and laborious but PAR 1405 would ensure getting results sooner in a greater area. Mr. Nastri added the possibility of a shorter sampling period to minimize the curtailment time. For additional details, please refer to the [Webcast](#) beginning at 1:12:14.

Board Member Padilla-Campos questioned whether PAR 1405 would impact patient care. She expressed concerns that people who live near facilities that use Ethylene Oxide would become patients because of their exposure to this chemical; therefore, she supported moving forward with the Set Hearing as proposed by staff. For additional details, please refer to the [Webcast](#) beginning at 1:18:33.

Board Member Kracov commended staff for actions taken to control Ethylene Oxide emissions and pointed out that based on scientific data, Ethylene Oxide is the second most toxic material. He emphasized the need to recognize the important role air monitoring played in assessing levels of Ethylene Oxide, however South Coast AQMD should not be paying for the monitoring. He pointed out that Parter has been good at controlling emissions, however Sterigenics has fluctuated. For additional details, please refer to the [Webcast](#) beginning at 1:19:17.

Mr. Nastri suggested that the Board move forward with today's 30-day Set Hearing. He gave assurance that staff would continue to work with all parties to address key concerns and would provide a report and recommendation at the next Stationary Source Committee meeting. He noted that in meeting with the parties over the last week it was made clear that they did not understand the provisions of the rule and how they applied, but they came to a general understanding after staff explained it. For additional details, please refer to the [Webcast](#) beginning at 1:22:15.

Councilmember Rodriguez recognized the importance to accomplish both priorities, which is controlling Ethylene Oxide emissions to ensure the safety of communities and addressing concerns about unintended consequences such as the shortage of medical supplies. He expressed support for Mayor McCallon's recommendation to set the hearing for December 2023 to allow additional time to address concerns. For additional details, please refer to the [Webcast](#) beginning at 1:23:48.

Councilmember Solache noted that protecting communities from harm and the availability of critical medical devices for patient care are equally important. He expressed concern with the unintended consequences and that industry may not be able to comply with the timelines. He agreed to move the Set Hearing to allow staff additional time to work on key issues; however, he did not want to delay it too far and recommended a Set Hearing for November instead of December. For additional details, please refer to the [Webcast](#) beginning at 1:26:10.

In response to Councilmember Raman's request for clarification on the potential for medical supply shortages, Mr. Nastri explained that the supply of sterilized medical devices has been a concern from the very beginning, and that there has not been a shortage of sterilized medical devices during any of the multiple curtailments that have been implemented. He explained that the pollution controls that staff is recommending are not new; it is the requirement to use these pollution controls that is new. Mr. Nastri commented that there are two equally important priorities, to ensure the public has sterilized medical devices and to protect the community from Ethylene Oxide emissions. For additional details, please refer to the [Webcast](#) beginning at 1:28:45.

Chair Delgado noted that PAR 1405 is a very technical rule, and some companies are just beginning to understand the rule, which may signal that more time is needed. Chair Delgado suggested a two-month delay to set the hearing in November with a Public Hearing in December. For additional details, please refer to the [Webcast](#) beginning at 1:32:51.

Mayor McCallon made a motion to set the PAR 1405 hearing in November 2023 and Councilmember Solache seconded the motion. Mayor McCallon requested that staff look into the permitting process, noting that the Sterigenics Vernon facility has been waiting for their permit for over one year. For additional details, please refer to the [Webcast](#) beginning at 1:34:52.

Supervisor Perez requested that staff also address the comments of Jesse Marquez by November. For additional details, please refer to the [Webcast](#) beginning at 1:35:53.

Mr. Nastri asked to clarify whether the Set Hearing is for November, with the Public Hearing in December.

Councilmember Raman expressed feeling uncomfortable about delaying the Set Hearing considering the toxicity of Ethylene Oxide. She requested assurance that the Board would not be voting to approve the Set Hearing at the November meeting. For additional details, please refer to the [Webcast](#) beginning at 1:37:43.

Mayor McCallon amended his motion for the action today to be a 90-day set hearing for the Public Hearing to be held December 2023. Councilmember Solache seconded the amended motion. For additional details, please refer to the [Webcast](#) beginning at 1:40:48.

Written Comments Submitted:

Evan Sanford, Redlands Chamber of Commerce

Board Action (Item 2)

MOVED BY MCCALLON, SECONDED BY SOLACHE
TO SET THE HEARING TO AMEND RULE 1405 FOR
THE DECEMBER 1, 2023 BOARD MEETING.

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Hagman, Kracov, McCallon,
Perez, Raman, Rodriguez, and Solache

NOES: Padilla-Campos

ABSTAIN: None

ABSENT: Lock Dawson, Do, and Mitchell

PUBLIC HEARINGS (These items were taken out of order)

34. Certify Final Environmental Assessment for Proposed Amended Rule 1178 – Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities; and Amend Rule 1178

The Board agreed to staff's request to waive the presentation.

The public comment period was opened for Agenda Item No. 34.

For additional details regarding the following comments, please refer to the [Webcast](#) beginning at 1:46:00.

Aleja, Earthjustice
Jan Victor Andasan, East Yard Communities for Environmental Justice*
Byron Chan, Los Angeles resident
Chris Chavez, Coalition for Clean Air*
Oscar Espino-Padron, Earthjustice*
Theral Golden, West Long Beach Association
Maria Gonzalez, Wilmington Resident (via a Spanish interpreter)
Ashley Hernandez, Communities for a Better Environment (CBE)
Esther Hernandez, Wilmington resident (via a Spanish interpreter)
Jesse Marquez, Coalition for a Safe Environment*
Julia May, CBE*
Maria Montes, Wilmington resident (via a Spanish interpreter)
Paul Pereira, Coalition for a Safe Environment*
Alicia Rivera, CBE*
Magali Hall Sanchez, CBE, Emerge, and Wilmington resident

*(Written Comments Submitted)

These commenters addressed the following issues:

- Support adoption of Proposed Amended Rule 1178.
- Control of petroleum storage tanks is needed and is an environmental justice issue.
- Recommend shortening the doming schedule.
- Recommend conducting a Flux Sense study periodically.
- There are other facilities with storage tanks that should also be domed.
- Concerns that there are more tanks being built near their communities.
- Recommend a report back to the Board in a year to evaluate the efficacy of the rule.
- Frustration that public testimony was limited on such an important topic.

Jeff Wilson, Chevron, expressed support for the adoption of PAR 1178 and appreciated staff's willingness to work with Chevron as well as the transparency and collaboration throughout the process. For additional details, please refer to the [Webcast](#) beginning at 1:49:19.

There being no further requests to speak, the public comment period was closed for Agenda Item No. 34.

Councilmember Solache apologized to the public for the need to reduce the time limit for public testimony, but the Board was at risk of losing a quorum and it was important that the Public Hearing items not be delayed to the following month.

Written Comments Submitted:

One letter signed by the following organizations: Communities for a Better Environment, Earthjustice, Coalition for Clean Air, East Yard Communities for Environmental Justice, Center for Biological Diversity, California Communities Against Toxics, and Coalition for a Safe Environment

Board Action (Item 34)

MOVED BY SOLACHE, SECONDED BY CACCIOTTI TO APPROVE AGENDA ITEM NO. 34 AS RECOMMENDED TO ADOPT RESOLUTION NO. 23-18 CERTIFYING THE FINAL ENVIRONMENTAL ASSESSMENT FOR PROPOSED AMENDED RULE 1178 – FURTHER REDUCTIONS OF VOC EMISSIONS FROM STORAGE TANKS AT PETROLEUM FACILITIES; AND AMENDING RULE 1178 – FURTHER REDUCTIONS OF VOC EMISSIONS FROM STORAGE TANKS AT PETROLEUM FACILITIES.

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Hagman, Kracov, McCallon, Padilla-Campos, Perez, Raman, Rodriguez, and Solache

NOES: None

ABSTAIN: None

ABSENT: Lock Dawson, Do, and Mitchell

35. Determine That Proposed Amended Rule 1111 – Reduction of NOx Emissions from Natural-Gas-Fired, Fan-Type Central Furnaces, Is Exempt From CEQA; and Amend Rule 1111

The Board agreed to staff's request to waive the presentation.

The public comment period was opened for Agenda Item No. 35; there being no requests to speak, the public comment period was closed.

MOVED BY CACCIOTTI, SECONDED BY PEREZ TO APPROVE AGENDA ITEM NO. 35 AS RECOMMENDED TO ADOPT RESOLUTION NO. 23-19 DETERMINING THAT PROPOSED AMENDED RULE 1111 – REDUCTION OF NOX EMISSIONS FROM NATURAL-GAS-FIRED, FAN-TYPE CENTRAL FURNACES, IS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND AMENDING RULE 1111 – REDUCTION OF NOX EMISSIONS FROM NATURAL-GAS-FIRED, FAN-TYPE CENTRAL FURNACES.

THE MOTION PASSED BY THE FOLLOWING VOTE:

AYES: Cacciotti, Delgado, Hagman, Kracov, McCallon, Padilla-Campos, Perez, Raman, Rodriguez, and Solache

NOES: None

ABSTAIN: None

ABSENT: Lock Dawson, Do, and Mitchell

STAFF PRESENTATION/BOARD DISCUSSION/RECEIVE AND FILE

(Board Member Padilla-Campos left at 11:17 a.m., Mayor McCallon, left at 11:22 a.m., and Supervisor Perez left at 11:22 a.m.)

33. Update on Development of Rail Yard Facility Based Mobile Source Measures (Presentation in Lieu of Board Letter)

Ian MacMillan, Assistant Deputy Executive Officer/Planning, Rule Development and Implementation, gave the staff presentation.

The public comment period was opened for Agenda Item No. 33.

Mark Lutz, Union Pacific Railroad, commented on Union Pacific's vision for clean air, but noted technological challenges. He sees the potential MOU between South Coast AQMD and the two railroads as an opportunity to bring in new technologies and reduce emissions at a faster pace. For additional details, please refer to the [Webcast](#) beginning at 2:22:55.

John Lovenberg, BNSF Railway, expressed his understanding of community concerns over the impacts of rail operations on air quality. BNSF supports an MOU approach to reduce rail emissions through a unique partnership of the South Coast AQMD with railroads, utilities, and technology developers. For additional details, please refer to the [Webcast](#) beginning at 2:28:40.

For additional details regarding the following comments, please refer to the [Webcast](#) beginning at 2:24:36.

Jan Victor Andasan, East Yard Communities for Environmental Justice
Enrique Arroyo, Warehouse Workers Resource Center,
Angie Balderas, Sierra Club My Generation
Chris Chavez, Coalition for Clean Air
Harvey Eder, Public Solar Power Coalition
Julieta Fuentes, Warehouse Workers Resource Center (via a Spanish interpreter)
Fernando Gaytan, Earthjustice
Theral Golden, West Long Beach Association
Maricarmen Gonzalez, a member of the public (via a Spanish interpreter)
Tania Gonzales, People's Collective for Environmental Justice
Delia Guzman, Warehouse Workers Resource Center (via a Spanish interpreter)
Brenda Huerta, People's Collective for Environmental Justice
Heather Kryczka, Natural Resources Defense Council
Alberto Leon, People's Collective for Environmental Justice
Mark, member of the public
Jesse Marquez, Coalition for a Safe Environment
Alondra Mateo, People's Collective for Environmental Justice
Marven Norman, Center for Community Action and Environmental Justice
Darby Osnaya, People's Collective for Environmental Justice and Colton resident
Marlene Sanchez, member of the public
Tiffany Sanchez, member of the public
Kevin Torres, Warehouse Workers Resource Center
Yvette Torres, People's Collective for Environmental Justice
Raphael Yanez, member of the public

These commenters addressed the following issues:

- Do not support an MOU.
- Do not trust the intentions of the railroad industry.
- Railroads are not trying to meet staff in the middle.
- Industry does not care about the health of the community.
- Concerns over the process and/or effectiveness of CARB MOU.
- An MOU must be consistent with commitments to AB 617 communities.
- Support development of a strong railyard ISR.
- South Coast AQMD has the authority to develop an ISR rule.
- Development of an ISR is taking a long time.
- South Coast AQMD should advocate for the community.
- People's health is being impacted by emissions from railroads.
- Difficult to live near the railroads with the noise and pollution.
- Support electrifying the railroads. There are electric trains in Europe.

There being no further requests to speak, the public comment period was closed for Agenda Item No. 35.

(Supervisor Hagman left at 12: 15 p.m. and Councilmember Rodriguez left at 12:59 p.m.)

On behalf of Supervisor Mitchell who was absent from the meeting, Board Member Kracov asked whether staff can work on the MOU and ISR simultaneously and if the potential MOU will be enforceable.

Mr. Nastri explained that it would require significant effort for staff to simultaneously work on an MOU and ISR. A lesson learned from past MOUs is on how years can be lost before realizing that it was not working so if staff cannot return to the Board with an MOU proposal quickly, staff will shift efforts to an ISR. Staff is looking at a December 2023 timeframe, and there may need to be some additional time beyond that. He will continue to look at whether there can be a parallel process; however, it would be challenging for staff. Mr. Nastri emphasized that the MOU is not developed yet, and it is critical to have a public process and receive community input. Mr. Nastri also added that staff is pursuing the MOU approach because it can achieve greater reductions at a faster pace. For additional details, please refer to the [Webcast](#) beginning at 3:21:24.

Board Member Kracov asked whether details of the potential MOU will be developed over the next few months, building upon the initial proposal by the railroads and with community input.

Mr. Nastri responded in the affirmative and reiterated the importance of community input in informing MOU development. He added that certain community concerns over rail operations that cannot be addressed in an air quality rule may be possibly considered in the potential MOU. Examples included workforce development and other community benefits. He then emphasized the short timeframe proposed by staff for this MOU development to keep pressure on all parties to deliver results expeditiously.

General Counsel Bayron Gilchrist confirmed that the potential MOU would be a contract that can be legally enforced in court. Dr. Sarah Rees explained that staff intends to propose submission of the potential MOU for inclusion in the SIP. If U.S. EPA approves the MOU into the SIP, it becomes federally enforceable and could also allow third-party standing to enforce the agreement. For additional details, please refer to the [Webcast](#) beginning at 3:24:25.

Board Member Kracov shared being proud as a CARB Board member to have voted to pass the In-Use Locomotive Regulation, which will require locomotives operating in zero-emission configuration in the state for all locomotives built in or after 2035 (unless using an alternative compliance option). The railroads have sued CARB on the regulation, so it is a difficult position to be sued as a CARB Board member on a regulation that was just approved and then take an accommodating tone as a South Coast AQMD Board member. It is very important that the MOU does not undermine CARB's regulation. He noted that the proposed MOU will address locomotives operating in-Basin only, while CARB's regulation is addressing all locomotive operations in the state.

Chair Delgado asked how it will be possible to know what CARB's regulation will achieve since CARB is being sued. Mr. Gilchrist responded that an assessment would be based on the language in CARB rule. Once the court makes its final ruling, staff will assess that decision.

Mr. MacMillan commented that the proposed MOU would seek to require that all in-Basin locomotives are Tier 4 or cleaner by 2033, with a commitment to demonstrate and continue to develop zero emission locomotive technology. An MOU could work in tandem with the CARB rule to help advance technologies and the work CARB is trying to do. Mr. MacMillan added that the South Coast Air Basin needs emission reductions in communities that are around these railyards.

Councilmember Raman mentioned that the Mobile Source Committee had requested information detailing the differences between the enforceability of the MOU and ISR, interim and final milestones, the difference in estimated emission reductions between the MOU and ISR, and that there be regular communication between South Coast AQMD staff and CARB staff.

Councilmember Rodriguez commented on being careful not to undermine CARB, particularly as two of the South Coast AQMD Board Members are on CARB's Board. He emphasized the distinctions between this MOU process and other previous MOUs, noting that lessons have been learned. There will be accountability, transparency, and all stakeholders will be at the table in this MOU process. This is an opportunity to be open-minded and to look at all the options to understand the most effective, impactful, and quickest way to reduce emissions and for the railroads to come to the table in good faith. He added that enforceability of the MOU must be as strong or stronger than it would be in an ISR so that the public does not feel there are loopholes or an easy way out.

Vice Chair Cacciotti concurred with the comments of his fellow Board Members and expressed optimism about the process. He noted that Mr. Nastri recommended giving the MOU process several months and recommended that staff provide monthly briefings to the Mobile Source Committee. If there is not much progress by December, staff should pivot to an ISR.

Mr. Nastri agreed to monthly briefings at the Mobile Source Committee. He commented on the Mobile Source Committee's request for goals and objectives and the importance of achieving those milestones as things move forward. The Committee also highlighted the need to ensure that enforceable provisions are identified early, look at emission reductions, and for updates to be provided on a regular basis so that there is confidence that the MOU approach is worthwhile and continuing.

Councilmember Solache expressed appreciation for the comments made by his fellow Board Members, the community and industry representatives. He underscored the importance of communication between the community and industry to determine the best approach.

Chair Delgado expressed appreciation for everyone's input. She requested that the Mobile Source Committee consider having concrete details and information presented to them at an evening meeting in a virtual setting to facilitate greater access for the community to provide feedback. Mr. Nastri responded that staff will work with the Committee Chair to address her comments and suggestions.



The Board recessed to closed session at 1:02 p.m., pursuant to Government Code sections:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

- 54956.9(a) and 54956.9(d)(1) to consider initiation of litigation:

South Coast Air Quality Management District v. EPA, U.S. District Court for the Central District of California, Case No. 2:23-cv-02646; and

East Yard Communities for Environmental Justice, et al. v. South Coast Air Quality Management District, the Governing Board of the South Coast Air Quality Management District, the California Air Resources Board, and Does 1 through 25, Inclusive, U.S. District Court for the Central District of California, Case No. 2:23-cv-06682.

CONFERENCE WITH LABOR NEGOTIATORS

- 54957.6 to confer with labor negotiators:

Agency Designated Representative: A. John Olvera, Deputy Executive Officer – Administrative & Human Resources;

- Employee Organization(s): Teamsters Local 911, and South Coast AQMD Professional Employees Association; and
- Unrepresented Employees: Designated Deputies and Management and Confidential employees.

Following closed session, Bayron Gilchrist, General Counsel, announced that there were no reportable actions.

ADJOURNMENT

There being no further business, the meeting was adjourned by Mr. Gilchrist at 1:15 p.m.

The foregoing is a true statement of the proceedings held by the South Coast Air Quality Management District Board on September 1, 2023.

Respectfully Submitted,

Faye Thomas
Clerk of the Boards

Date Minutes Approved: _____

Vanessa Delgado, Chair

ACRONYMS

AQMP = Air Quality Management Plan
CARB = California Air Resources Board
CEC = California Energy Commission
CEQA = California Environmental Quality Act
CPUC = California Public Utilities Commission
FY = Fiscal Year
ISR = Indirect Source Rule
OEHHA = Office of Environmental Health Hazard Assessment
PAR = Proposed Amended Rule